

DECREE No.7797/00 OF MARCH 7, 2000
ENACTING REGULATIONS
UNDER LAW NO. 385/94
“ON SEEDS AND PROTECTION OF PLANT VARIETIES”

CHAPTER I

GENERAL PROVISIONS

AIM

Article 1

The purpose of these Regulations is to establish the conditions facilitating implementation of Law No.385 of August 11, 1994, “On Seeds and Protection of Plant Varieties” and to amend Decree No.19.975 of February 17, 1998, which fixes the amounts of the fees provided for in said Law.

DEFINITIONS

Article 2

For the purposes of the implementation of these Regulations the following meanings shall be taken into consideration:

- a). Testing Station and/or Test Growing Field: Site belonging to a duly accredited official or private body in the Agricultural Research Directorate (DIA), attached to the Ministry of Agriculture and Livestock (MAG), on which studies are carried out into the behavior of species or varieties of agricultural genera of economic importance.
- b). Technical Officer: Staff member having graduated from the agronomy and forestry branch with a national or recognized degree, duly entered in the National Register of Agronomists and Forestry Engineers (RNIAF), and who shall submit to the Seeds Directorate (DISE) the terms of agreements concluded with producers responsible for implementing Law No 385/94, these Regulations and the Technical Standards for Seed Production.
- c). Approved Seed: Seed produced by seed producers entered in the National Register of Seed Producers (RNPS) of the DISE and conforming to the technical standards established for such seed.
- d). Seed Trader: Natural or legal person under public or private law with an established institution who produces, imports, exports, stores, processes and distributes seed for commercial purposes, and is entered in the National Register of Seed Traders (RNCS).
- e). Batch: Quantity of seed packaged or in bulk and identified by a number or other symbol that guarantees the uniformity of the consignment.
- f). Sample: Quantity of seed representative of a batch.
- g). Analysis: Set of procedures carried out by a seed laboratory by means of which the physical, physiological and health characteristics of a seed sample are determined.
- h). Purity: Percentage by weight of pure seed in a particular sample.
- i). Germinating power or germination: The percentage of seed capable of producing normal plants under favorable conditions, in accordance with international rules.

CHAPTER II

INSTITUTIONAL ORGANIZATION NATIONAL SEEDS COUNCIL

Article 3

The National Seeds Council (CONASE) shall be established by Ministerial Resolution and shall comprise ten members, five of whom shall be representatives of the public sector and five of the private sector, having been designated by the corresponding bodies (Article 8 of Law No. 385/94).

The public sector representatives shall be from:

- ☐ The Seeds Directorate;
- ☐ The Agrarian Development Directorate;
- The Plant Protection Directorate;
- ☐ The Agricultural Research Directorate;
- ☐ The official credit institutions attached to the Ministry of Agriculture and Livestock.

The private sector representatives shall be from:

- ☐ The Federation of Production Cooperatives (FECOPROD);
- ☐ The Association of Seed Producers of Paraguay (APROSEMP);
- ☐ The Organization of Seed Traders;
- ☐ The Plant Breeders' Association;
- ☐ The National Agriculture Society, the National Agricultural Union or another organization which, in the judgement of CONASE, is in a position to represent farmers.

The institutions or bodies represented within CONASE shall appoint a titular representative and an alternate with knowledge and experience of the areas associated with the seed sector, in order that the Council's advisory role in establishing national seed policy may be carried out.

Council members shall discharge their duties *ad honorem*.

CHAPTER III

NATIONAL REGISTER OF COMMERCIAL PLANT VARIETIES

Article 4

Any variety of plant that is intended for production and marketing under the Production of Certified and/or Approved Seed systems shall be entered in the National Register of Commercial Plant Varieties (RNCC) (Article 14 of Law No.385/94).

The inclusion of a plant variety in the RNCC shall be for the sole purpose of its production and/or marketing on the national territory and shall not confer any other right on the person making the entry.

A request for the inclusion of a plant variety in the RNCC shall be made to the DISE on the form provided for that purpose, which shall be regarded as a sworn declaration.

On the submission of a request, the DISE shall convene the Technical Committee for Plant Variety Inspection (CTCC), which shall issue a ruling on the basis of information emerging from an investigation.

Where the CTCC considers it necessary, the DISE may also request any additional information, documents, field and/or laboratory test findings with which to verify the characteristics attributed to a plant variety.

In the event of an adverse ruling by the CTCC, the DISE shall inform the requesting party of the rejection and of the grounds for it, whereupon the requesting party may submit a further request once the grounds for rejection have been remedied.

In the event of a favorable ruling by the CTCC, the DISE shall forward the request to the Ministry of Agriculture and Livestock for approval by resolution.

Following a decision by the Ministry of Agriculture and Livestock to issue a favorable ruling, the DISE shall enter the plant variety concerned in the RNCC and shall issue the corresponding certificate, subject to payment by the interested party of the request and entry fees specified in Article 1(c) of Decree No.19.975/98 and these Regulations; the requesting party shall also pay the annual maintenance fees stipulated in the Decree mentioned.

Plant varieties that have been declared to be in the public interest, which are included in the RNCC *ex officio*, shall be exempt from the above charges.

Article 5

All plant varieties which, prior to approval and publication of this Decree, have already been produced and/or commercialized on the national territory shall be declared to be in the public interest and included *ex officio* in the RNCC in accordance with Article 19 of Law No.385/94.

Article 6

All varieties of species not included in the RNCC shall be produced and/or commercialized on national territory as common seed (Article 15 of Law No.385/94) and shall be entered in a National Common Seed Register (RNSC) authorized by the DISE until such time as they may be included in the RNCC.

Article 7

To be considered fit for inclusion in the RNSC, varieties of species shall meet the following requirements:

- a. They must have been commercialized in the country for at least the last three years prior to the introduction of Law No.385/94;
- b. Official statistics or information must be available from other sources to demonstrate that they have been in commercial use for a period of more than three years;
- c. They must be of known origin so that more information may be requested regarding the botanical features and/or agronomical behavior of the variety.

Article 8

In addition to those specified in Article 15 of Law No.385/94, all of the following may be commercialized as common seed;

- a. The seed of species which, while included in the RNCC, have not been produced under the certified and/or approved seed production systems;
- b. The seed of species which, while included in the RNCC and produced under the approved seeds production system, have not satisfied the requirements established by the Minimum Production and Commercialization Rules for their category.

Article 9

For the commercialization of common seed, the identity of the species and variety shall be considered, and it shall be ascertained whether it conforms to the minimum purity and germination percentages of the laboratory reference material for the species and current plant health standards.

Packages of common seed shall be clearly marked on the outside with the words "Common Seed."

The purity and germination percentages specified on labels may be verified by means of an analysis which the Official Laboratory or another duly registered authorized laboratory shall conduct.

Article 10

Species not included in the RNCC that are required to satisfy national agricultural needs (Article 13 and 15 of Law No.385/94) shall be included, by virtue of a resolution issued by the Ministry of Agriculture and Livestock, in the following manner:

- a. The DISE shall propose to the MAG the inclusion in the RNCC of the species considered necessary (Article 16 of Law No.385/94);
- b. For the inclusion of new species in the RNCC, test results achieved in research monitored by the DISE shall be taken into consideration.

Article 11

One or more of the agricultural research representatives of the CTCC (Article 17 of Law No.385/94) shall be an expert on the species to which the variety filed for inclusion in the RNCC or National Register of Protected Plant Varieties (RNCP) belongs.

Similarly, the seed producers' representative may also be a producer of the species to which the variety filed for inclusion belongs.

Article 12

The denomination of a plant variety shall meet the following requirements:

- a. It shall allow the variety to be identified;
- b. It may not consist only of figures;
- c. It shall not mislead or confuse as to the characteristics, value or identity of the variety, or as to the identity of the breeder;
- d. It shall differ from any denomination that designates a preexisting variety of the same or of a similar botanical species in any other country;
- e. The DISE may reject the inclusion of a plant variety whose denomination does not meet the established criteria and may request that another denomination be proposed for a variety:

- ☐ Where the former would affect rights granted previously by another country;
- ☐ Where the attempt is made to register a denomination different from that already registered for the same variety in another country.

Article 13

The DISE shall propose the exclusion of a plant variety from the RNCC to the Ministry of Agriculture and Livestock (Article 21 of Law No.385/94), on the basis of a ruling by the CTCC, where:

- a. The plant variety is found to have lost the features for which it was accepted, or anomalies or differences have been detected in statements made following its inclusion;
- b. The plant variety has ceased to be produced or commercialized in the country for a period of five consecutive years;
- c. The plant variety is also included in the RNCP and has been removed from it owing to loss of stability and uniformity;
- d. The person responsible for its inclusion so requests.

CHAPTER IV

NATIONAL REGISTER OF PROTECTED PLANT VARIETIES

Article 14

The prior authorization of a breeder shall be required for the performance of the following acts by third parties in relation to material for the propagation or multiplication of a protected variety (Article 23 of Law No.385/94):

- a. Production, reproduction, multiplication or propagation (for commercial purposes);
- b. Conditioning and storage for the purposes of commercial reproduction, multiplication or propagation;
- c. Offering for sale;
- d. Sale, commercialization or transmission for whatever purpose;
- e. Import or export.

A breeder may give his authorization for the above acts subject to conditions which he himself shall define.

Article 15

For the purposes mentioned in Article 25 of Law No.385/94, sale means offering for sale, a transaction actually agreed or any other form of commercialization of a variety or its propagating material in any form.

Similarly, novelty shall not be lost where the propagating material of the variety has been sold, commercialized or transmitted to third parties by a breeder or with his consent when:

- a. It forms part of an agreement under which a third party has increased the stocks of said material on behalf and at the request of a breeder;
- b. It forms part of an agreement under which a third party has carried out small-scale field, laboratory or processing trials in order to evaluate the variety.

Article 16

The denomination of a variety (Article 26 of Law No.385/94) shall differ from any denomination designating a preexisting variety of the same or of a similar botanical species. The denomination proposed for a variety shall be identical in cases where the same denomination is registered in another State, whether in a register of protected varieties or in a register or list of varieties suitable for commercial purposes.

The proposed denomination shall take no account of prior third-party rights. If, by virtue of a previous right, the use of the denomination of a variety is prohibited for a person who is obliged to use it, the DISE shall request the breeder to propose another denomination for the variety within a period not exceeding 30 days from the notification of rejection.

Where it is observed that a proposed denomination does not meet the requirements mentioned in this Article, the DISE shall refuse to register the denomination and shall request the breeder to propose another within the above period.

Article 17

A request for inclusion and actual inclusion in the National Register of Protected Plant Varieties, Article 29 of Law No.385/94, shall have the effect of a sworn declaration and shall be submitted in accordance with the following requirements:

- a. Name, document and address of plant improver if not the same person as the breeder;
- b. Name and address of the breeder, and of his national representative legally registered in the country where applicable;
- c. Name, address and professional registration number of the agronomist sponsoring the inclusion, and his RNIAF registration number;
- d. Common and scientific name of the species;

- e. Proposed name of the variety;
- f. Establishment and place where the variety was bred;
- g. The description, which shall cover the morphological, physiological, health, phenological, physical and chemical features and also the industrial or technological properties enabling the variety to be identified; drawings, photographs or any other generally accepted technical element shall be included to illustrate morphological aspects;
- h. The basis of novelty, with a mention of the date as from which the variety has been commercialized in the country or abroad;
- i. The basis of the variety's distinguishability, with an indication of the reasons for which the variety is considered novel and previously undisclosed, with justification of the features distinguishing it from those already existing;
- j. The verification of stability, the date on which the variety was first propagated in that form, and proof of its stability or sustainability;
- k. Particulars of the parent lines of the new variety;
- l. The origin, whether national or foreign, with a mention in the latter case of the country of origin, the date of inclusion of the variety in that country's property register and a copy of the corresponding property title;
- m. Reproduction or propagation mechanism;
- n. Other additional information for species that so require, as laid down by the DISE.

Any documentation submitted with the request shall be certified by the competent authority, and shall be accompanied by a translation by an official public translator in the case of documents of foreign origin evidencing the exercise of whatever kinds of right may be inherent in the variety filed for inclusion (certificates, powers, contracts and the like), certification by the Paraguayan consulate of the country of origin and appropriate authentication.

Following a decision by the Ministry of Agriculture and Livestock to issue a favorable ruling, the DISE shall include the plant variety in the RNCP and shall grant the breeder's title against payment by the interested party of the request and entry fees established by Article 1(b) of Decree No.19.975/98 and these Regulations, together with the annual maintenance fee laid down in the said Decree.

The MAG, acting through the DISE, shall issue procedural rules for the inclusion of plant varieties in the appropriate Register.

The rules to be issued shall not affect the right of third parties to formulate such objections as they consider relevant.

Article 18

The breeder's right to a variety shall have a minimum duration, counted from the date on which the title is granted, of 15 years except in the case of vines and trees, for which the duration shall be 18 years (Article 30 of Law No.385/94).

Article 19

The transfer of the breeder's title to a third party (Article 32 of Law No.385/94) shall be effected by means of a joint submission by the transferor and the transferee containing the personal particulars of both parties, and the legal documentation evidencing the transfer shall be enclosed in accordance with the requirements of Article 17 of the said text.

The transfer request, with the names of and information concerning the transferor and transferee, shall be published in two major circulation national newspapers for a period of ten working days, for the purposes of possible objections by third parties. Once the period

in question has elapsed and provided that no objections have been raised, the transfer shall be submitted to the RNCP and shall be recorded in the breeder's title concerned.

The transferee shall remain subject to the same obligations, with the same scope, as the transferor.

Article 20

In order to benefit from the priority right provided for in Article 33 of Law No. 385/94, the interested party shall make an express request for his priority right, within three months of the date on which the subsequent request was made, and shall provide a copy of all the documents included in the first request, which shall be approved by the competent national authority to which the first request was submitted; he shall also enclose samples or any other sufficient proof of the fact that the variety to which both requests relate is the same.

Article 21

The authorization of the holder of a breeder's right (Article 35 of Law No. 385/94) shall not be required where a farmer uses, for the purposes of propagation on his own land, the product of the harvest from the sowing on that land of the acquired material, with the authorization of said holder, or derived from the material so acquired.

Article 22

The declaration of "Restricted Public Use" of a plant variety specified in Article 36 of Law No. 385/94 shall be valid for a maximum period of two years. The extension of this otherwise equal period may only be declared in the form of a new well-founded resolution issued by the Ministry of Agriculture and Livestock, subject to the opinion of CONASE.

Article 23

The declaration of "Restricted Public Use" (Article 37 of Law No. 385/94) shall be published in a major circulation national newspaper for a period of 15 working days, and shall require submissions by interested third parties, as well as minimum technical and economic guarantees and other qualifications which shall be met by the requesting parties.

Article 24

An interested party may submit an appeal for reexamination of the resolutions of the Ministry of Agriculture and Livestock refusing the grant of a breeder's title is refused, in accordance with Article 39, Chapter IV of Law No. 385/94, and invalidating and canceling those already granted, to the administrative and judicial authorities specified in Articles 95 and 96 of said Law, subject to the conditions and periods stated therein.

CHAPTER V

SEED PRODUCTION NATIONAL REGISTER OF SEED PRODUCERS

Article 25

All agricultural producers shall, for the purpose of producing seeds, be included in the National Register of Seed Producers (RNPS) authorized by the DISE (Article 49 of Law No. 385/94), inclusion in which shall be requested using the form provided for that purpose, which shall have the effect of a sworn declaration.

The request shall be accompanied by the following:

- a. Terms of agreement of a duly registered technical representative, who shall be responsible to the DISE for observance of the specific technical standards established for the species to be produced;
- b. Exact location of the production holding (sketch) where the producer grows the seed by himself;

- c. Where production is carried out by a producers' cooperative, a list of members shall be submitted together with the relevant accreditation documents and the exact location of the producers' holdings;
- d. List of appropriate machinery and equipment available for the work to be done at the different stages of production;
- e. List of facilities, machinery and equipment for storing, processing, analysing and preserving seed until it is commercialized;
- f. Design of the trade name or trademark that will be printed on the packaging.

The above requirements shall apply only to producers of seed of species included in the RNCC.

Once the aforementioned requirements have been met, and the request and entry fees provided for in Article 1(a) of Decree No.19.975/98 have been paid, subject to verification by DISE specialists of the submissions made and a favorable decision taken thereon, the Corresponding Seed Producer Certificate shall be issued.

Article 26

The seed producer shall pay the annual maintenance fee established in Article 1(a) of Decree No.19.975/98.

Non-payment of said fee for a period of five consecutive years shall lead to the exclusion *ex officio* of the seed producer in question from the RNPS.

A seed producer excluded from the RNPS may request re-registration, for which purpose he shall comply with the initial registration requirements.

Article 27

The technical representative shall, to be recognized as such, complete an authorized register of signatures held by the DISE.

Seed production system

Article 28

Seed produced under the certified and approved seed production system that does not meet the requirements of specific production standards may be commercialized as seed of a lower category to which it does conform. Similarly, within the approved seed production system a mention shall be made of the origin of the seed to be propagated (Article 51 of Law No.385/94).

CHAPTER VI

SEED TRADE NATIONAL REGISTER OF SEED TRADERS

Article 29

All traders commercializing seed shall be included in the National Register of Seed Traders (RNCS) (Article 56 of Law No.385/94), for which purpose their registration shall be required using the form provided by the DISE, which shall have the effect of a sworn declaration.

The declaration shall be accompanied by the following:

- a. Description of the conditions and capacity of the storage sites guaranteeing appropriate seed preservation.
- b. Trading license granted by the relevant municipalities and other accreditation documents.

Article 30

Once the above requirements have been met, the application and registration fees provided for in Article 1(e) of Decree No.19.975/98 have been paid, the storage and sale sites have been inspected by DISE specialists and a favorable decision has been taken, the

corresponding Seed Trader Registration Certificate shall be issued (Article 57 of Law No.385/94).

In cases where an application is rejected as a result of not meeting the specified requirements, the party concerned shall have a period of 30 days from the date of notification to satisfy the request made, failing which the application shall be considered abandoned, and there shall be no right to appeal.

Article 31

The register, use of which shall be compulsory for natural or legal persons engaged in the seed trade, shall, in accordance with Article 61 of Law No. 385/94, be numbered and initialled by the DISE on each page.

The initialling may be in the form of a rubber-stamp impression on each page of the register.

Article 32

Any change in the premises used for commercialization and/or storage shall be communicated to the DISE within 30 working days of the change taking place.

The opening of any branches shall be communicated to the DISE which, following inspection of the new premises, may authorize their inclusion in the same register.

Article 33

Where a seed trader wishes to terminate his trading activity, he shall request the DISE to cancel his registration and shall attach the latest registration certificate to the request. Inclusion in the RNCS shall be renewed annually following payment of the annual maintenance fee provided for in Article 1(e) of Decree No.19.975/98.

Seed identification and packaging

Article 34

All seed placed on sale (Article 58 of Law No.385/94) may be commercialized in packaging made of:

- a. Jute;
- b. Plastic fiber;
- c. Cotton;
- d. "Kraft" paper;
- e. Other materials.

a. The maximum capacity of each package shall be 50 kilograms. In the case of cottonseed, the use of plastic-fiber or jute bags is not recommended.

b. Packaged material shall be clearly and legibly identified, as provided in the Article referred to above, in the official language.

c. Seeds produced under the certified and approved seed production systems that are commercialized shall conform to specific laboratory reference material for the different categories of each species.

d. Labels shall be provided solely by the Seeds Directorate, following quality control of the batches of seed to be commercialized.

Article 35

Seed traders may divide up the contents of labelled original packages, provided that they have been authorized to do so by the DISE, Article 60 of Law No.385/94, in order to establish the corresponding responsibilities.

In that case the divided packages shall also be identified with information from the label of the original package, whether in the form of an actual label or an inscription on the package. Such information shall have the effect of a sworn declaration. Where seed has

been treated, a mention and a description of the chemical treatment to which it has been subjected shall be compulsory; the seed shall be dyed to warn of its unsuitability for use as human and/or animal food.

Seed Imports

Article 36

All natural or legal persons under public or private law interested in importing seed shall be included in the RNCS (Article 62 of Law No.385/94).

All seed of species and varieties included in the RNCC or RNSC may be imported in commercial quantities.

Species and/or varieties included in the RNSC may be imported in commercial quantities only after the DISE has issued a favorable technical opinion and if they conform to plant health standards and the purity and germination requirements established on laboratory samples of each species.

Article 37

Individual farmers or those in partnership interested in importing seeds for their own use shall request the necessary authorization from the DISE which, following a favorable ruling by CONASE, shall submit the request to the Minister of Agriculture and Livestock for approval by a resolution, Article 63 of Law No.385/94.

The farmers in question shall be required:

- a. To prove their status as individual farmers or as partners;
- b. To prove that the volume of seed to be imported corresponds to the area to be sown.

Article 38

Imported seed that does not conform to technical standards in relation to the species and/or to hygiene may be returned, reexported, used in industry or for human or animal consumption or be destroyed by the importer, as dictated by circumstances, subject to supervision by the DISE.

Once it has entered the country, all imported seed shall be subject to the provisions of Law No.385/94, these Regulations and the control and supervision of the DISE.

Article 39

The import of species and varieties for the purposes of propagation and subsequent export (Article 65 of Law No.385/94) shall be permitted provided that the following requirements are satisfied:

- a. The seed to be imported must not be diseased or carry diseases expressly prohibited in Paraguay;
- b. The species or varieties of the seed to be imported must meet technical and plant hygiene standards;
- c. The interested party must have documents providing proof of a subsequent export agreement.

Seed imported for propagation purposes and subsequent export shall only be used for the purposes specified.

It may not be sold, commercialized or distributed inside the country.

Once seed has entered the country, the importer shall be responsible for the imported material and shall keep the DISE informed of the place of storage and the plot where it is to be sown, thereby allowing free access for control and supervision by DISE specialists.

Seed Exports

Article 40

Natural or legal persons under public or private law included in the RNPS and/or RNCS shall request authorization from the DISE to export seed which, subject to a favorable ruling by the CONASE, shall be transmitted to the Ministry of Agriculture and Livestock for a resolution to be adopted (Article 69 of Law No.385/94).

CHAPTER VII

SEED ANALYSIS NATIONAL REGISTER OF SEED LABORATORIES

Article 41

Interested parties shall request the DISE to include a Seed Analysis Laboratory in the National Register of Seed Laboratories (RNLS) (Article 74 of Law No.385/94), using the form provided for that purpose; said form shall have the effect of a sworn declaration, which shall comply with the provisions of Resolution GMC No.60/97 and its amended version contained in Resolution GMC No.69/98 of Article 1 of Decree No.5.090/99, and shall be accompanied by:

a. Terms of agreement signed by the technical representative;

Where the requesting party is also a producer included in the RNPS, the technical production representative shall, in that capacity, also be an authorized signatory on behalf of the Seed Analysis Laboratory;

b. List of analysts, place and date of training;

c. Equipment data, specifications, quantity, make, model and capacity;

d. Exact location of the Laboratory;

e. List of species to be analysed.

The DISE shall verify whether the facilities and equipment are appropriate, and also whether the technical personnel are trained to carry out all analysis-related activities.

If during an inspection of facilities and equipment, or verification of the suitability of analysts declared by a requesting party, DISE specialists detect non-compliance with the rules established for the analysis of requested species, the requesting party shall be duly informed and, once the relevant requirements have been satisfied, shall contact the DISE to arrange another inspection.

For the purposes of inclusion in the RNLS, laboratories shall comply with the Standards for Authorization of Seed Analysis Laboratories (LAS), Decree No.5.090/99.

Once a requesting party has complied with the requirements established for inclusion in the RNLS, and following its authorization as an Approved Laboratory and payment of the application and registration fees established in Article 1(d) of Decree No.19.975/98, the DISE shall issue the corresponding Registration Certificate.

Article 42

The DISE Seed Analysis Laboratory shall be the Official Laboratory for the purposes specified in Law No.385/94 and these Regulations.

Article 43

Seed analysis laboratories included in the RNLS shall have the status of Approved Laboratories.

Article 44

The Official Laboratory and Approved Laboratories shall observe the analysis procedures established in the ISTA (International Seed Testing Association) Standards.

Article 45

Only the Official Laboratory and Approved Laboratories may issue seed analysis certificates and/or bulletins, which shall be valid on the whole of the national territory,

and in certain circumstances abroad under relevant conventions or agreements that have been or may be signed.

Article 46

In the case of divergent seed analysis findings of approved laboratories, the Official Laboratory shall be responsible for resolving the matter.

Article 47

Where an Approved Laboratory requests an increase in the number of species to be analysed for commercial purposes, it shall do so in writing to the DISE which, prior to granting authorization, shall verify the availability of the equipment necessary for carrying out the analysis of the requested species and the suitability of the analysts.

If, during the verification mentioned in the previous paragraph, one or more pieces of the necessary equipment prove unavailable and/or the analysts unsuitable, the requesting party shall be duly informed and, once the relevant requirements have been satisfied, shall contact the DISE to arrange another inspection.

Following a favorable ruling on the second inspection mentioned above, the DISE shall authorize the release of the species to be analysed by the laboratory in question.

Article 48

Approved Seed Analysis Laboratories shall pay an annual maintenance fee as provided in Article 1(d) of Decree No.19.975/98.

Non-payment of the fee mentioned in the preceding paragraph for a period of five consecutive years shall lead to the exclusion *ex officio* of the laboratory in question from the RNLS.

Any laboratory excluded from the RNLS as a result of the above provisions may request re-registration, for which purpose it shall satisfy the initial registration requirements.

CHAPTER VIII

INSPECTION AND SUPERVISION

Article 49

Verification shall be carried out in the following cases:

- a. As a matter of routine;
- b. On a complaint by the competent authority;
- c. On a complaint by a producer who has acquired seed that does not correspond to a particular type of labelling.

Accredited technical officials shall, during supervision of seed production, transportation and/or trade (Article 77 of Law No.385/94), produce three copies of a report, the contents and force of which shall be identical, on forms provided by the DISE; the report shall be signed by an inspector and owner of or person responsible for the seed; it shall record everything observed during the verification and, where an irregularity or irregularities have been detected, the type of defect shall be specified with reference to individual batches, and the number and weight of the packages concerned shall be given.

The seed samples extracted by the inspector during the verification shall be sent to the Official Laboratory for analysis in order to determine whether they meet legal requirements and technical standards. The batches affected may not be commercialized until such time as the Official Laboratory allows it, following analysis.

On the basis of the results of the analysis conducted by the Official Laboratory, the actions to be carried out shall be determined in accordance with Article 88 of Law No.385/94.

CHAPTER IX

FEES AND PROMOTION OF PRODUCTION

Article 50

Decree No.19.975/98, implementing Article 82 of Law No.385/94, is hereby amended, Article 1(g) of which shall read as follows:

Article 1: The amounts of the fees provided for in Law No.385/94 “ON SEEDS AND PROTECTION OF PLANT VARIETIES” are hereby fixed and shall be payable to the Seeds Directorate, attached to the Ministry of Agriculture and Livestock, as follows:

Minimum Wages

Application Register Annual Maintenance

- a. National Register of Seed Producers (RNPS) 5 10 5
- b. National Register of Protected Plant Varieties (RNCP) 5 30 10
- c. National Register of Commercial Plant Varieties (RNCC) 5 10 5
- d. National Register of Seed Laboratories (RNLS) 5 10 5
- e. National Register of Seed Merchants (RNCS) 5 10 5
- f. Issue of provisional certificates in the National Register of Protected Plant Varieties (RNCP)
- g. Provision of labels or tags for seed, the equivalent up to 0.03 Daily Minimum Wages (DMW), according to origin, species and category of seed, which shall be established as follows:
 1. 0.03 DMW for registered, approved and hybrid categories for each bag of national or imported agricultural seed.
 2. 0.02 DMW for each bag of agricultural seed of the verified national or imported category.
 3. 0.01 DMW for each bag of agricultural seed commercialized as common seed.
 4. For seed of horticultural, fruit, ornamental, forest and other varieties:
 - 0.0225 DMW for seed whose unit price does not exceed 5.0 DMW;
 - 0.0250 DMW for seed whose unit price is between 5.1 and 10 DMW;
 - 0.0275 DMW for seed whose unit price is between 10.1 and 15.0 DMW;
 - 0.030 DMW for seed whose unit price is over 15.0 DMW.

Article 51

The amounts to be paid to the DISE, provided for in Article 82(a), (d) and (e) of Law No.385/94, for the provision of services such as inspection of seed production under the approved and supervised systems, seed sampling, analysis, processing and testing services, shall be established by decision of the MAG, at the request of the DISE, based on the actual cost of the services in question.

The amounts shall be adjusted annually, taking into account the annual variation in the consumer price index established by the Central Bank of Paraguay (BCP).

Article 52

The MAG may make annual incentive awards as follows (Article 87 of Law No.385/94) at the request of the DISE and in agreement with CONASE:

- a. Individuals or institutions noted in the plant improvement sector for breeding superior varieties beneficial to national agriculture shall be awarded certificates or distinctions;
- b. Producers and/or merchants noted in their respective areas of activity shall be awarded certificates, plaques or trophies according to their various circumstances.

CHAPTER X

INFRINGEMENTS AND PENALTIES

Article 53

In addition to those provided for in the various paragraphs of Article 88 of Law No.385/94, the following shall be regarded as infringements:

a. All violations committed in the process of commercializing and transporting seed, such as:

- Detaching, altering, defacing or destroying any label attached in accordance with the Law;
- Using on any label or advertising the term “type” in conjunction with the name of a seed;
- Moving, handling or disposing of seed batches withdrawn from sale, or their labels, without written authority from the Seeds Directorate;
- Transporting seed in bulk once it has been processed;
- Having a certificate for an analysis carried out more than six months previously;
- Having information added to a package or label that is not strictly authorized by Law No.385/94 and these Regulations.

b. Natural or legal persons importing seeds, tubers, bulbs or other reproductive material intended exclusively for industrialization or consumption, and offering to give away, distribute, transfer or sell those items, for whatever purpose, as “seed.”

c. A seed producer who himself, or whose Technical Representative acting on his behalf, omits or falsifies information and thereby confuses or misleads in relation to a plant variety being produced which, in accordance with Law No.385/94, these Regulations and the technical standards established for the propagated species, the producer is obliged to supply to the DISE.

Article 54

Without prejudice to the relevant criminal responsibility, failure to comply with Law No.385/94 and this Decree shall be subject to the following administrative penalties.

a. Caution: This is the written document in which the attention of the party primarily responsible is drawn to the breach committed, taking into account the nature and circumstances of the infringements where these are of a minor nature.

b. Fine: This is the financial penalty imposed on any person violating the relevant legal provisions for the verification of seed production and trade.

A fine may constitute a principal or additional penalty to be applied according to the gravity of the infringement.

In the course the verification of seed production, fines may be imposed on seed producers who commit the following breaches:

- Using plots of land without prior authorization;
- Using seed not covered by established reference material or plant varieties not included in the RNCC;
- Storing seed, with a view to its being sown, without the care required to preserve its physical, physiological and/or plant hygiene characteristics;
- Using plots of land for producing unregistered seed intended for commercial production;
- Failure to observe of the technical conditions laid down in the General and Specific Standards for the species being produced;
- Producing seed without the corresponding registration, whether initial or renewed;
- Preventing or obstructing, by whatever means, the action of authorized inspectors;

In the course of the inspection of seed trading and/or transport, the following batches shall be liable to fines:

- Those with health certificates whose period of validity has expired;
- Those identified as non-compliant or whose identification is false or inaccurate;
- Those that have been advertised, by any means or in any form, with nonrepresentative or false statements;
- Those presented as approved, inspected or in any other category without that fact being specified on their containers or packaging, or on official labels or tags provided by the DISE;
- Those not accompanied by the requisite legal documentation.

A fine shall likewise be imposed on natural or legal persons who:

- Prevent or obstruct supervisory activities by whatever means;
- Commercialize or transport seed whose commercialization has been suspended by the DISE.

Seed batches that fail to comply with the above provisions may not be commercialized.

c. Confiscation: This is a punitive measure designed to prevent the commercialization of seed that is not suitable for sowing; seed batches shall be confiscated where:

- The requirements of official reference models are not adhered to;
- Plant health certificates have expired or have been tampered with;
- The name of a species or variety is incorrect or is not given;
- They have been commercialized or transported without displaying, clearly written in a visible place on the container or packaging, the label or tag or identification stamp containing the information required by Law No.385/94, these Regulations and the technical standards in force for the species in question;
- The plant variety has been officially recognized as being unfit for sowing;
- They have been commercialized by natural or legal persons not included in official registers;
- They have been produced by seed producers not registered with the DISE;
- The transport of the batches is not accompanied by the requisite legal documentation;
- Commercialized seed batches come from seedbeds closed for not complying with the standards established by the DISE.

In cases of confiscation, the infringing party shall be the depositary of the confiscated seed batches, whose replacement, transfer or commercialization shall be prohibited until such time as the MAG has taken a decision on their fate.

d. Temporary withdrawal from the Seed Producers and Traders Register or other registers held by the DISE, Article 90 of Law No.385/94, shall occur in cases where:

- The seed producer or trader repeats any of the offenses specified in Law No.385/94, these Regulations and the technical standards in force;
- The producer or trader imports seed and uses it for other economic purposes without due authorization from the DISE;
- The producer or trader sows, distributes, sells or displays seed that is not authorized or is prohibited, or whose production and/or commercialization is suspended;
- The producer or trader distributes, sells or displays for sale seed imported for the purposes of propagation and subsequent export, Article 65 of Law No.385/94.

e. Definitive cancellation of inclusion in the relevant register(s) shall occur in cases where:

- The seed producer or trader repeats any of the offenses punishable by temporary withdrawal from the register;
- The performance of fraudulent acts is proved, on a proposal by the DISE relating to the suitability of a producer or trader.

Article 55

Records of infringement proceedings shall be issued in three copies, the content and effect of which shall be identical, and which shall be signed by the inspector and by the infringer or his legal representative.

a. Where the infringer refuses to sign the record, that fact shall be noted and a copy shall be sent to him;

b. Consideration of the record of an offense shall be regarded as an administrative proceeding and conducted by the MAG, which shall decide on the penalty to be applied and shall notify the infringer accordingly.

Article 56

An appeal for reconsideration of a particular case shall be made, within ten days of the date on which notification is received, to the authority that has imposed the penalty, which after considering the case shall arrange for it to be referred to the appropriate body.

CHAPTER XI

SPECIAL PROVISIONS

Article 57

All provisions contrary to those contained in this Decree are repealed.

Article 58

The Ministry of Agriculture and Livestock (MAG) shall be authorized to extend and/or partly to amend this Decree by means of resolutions with a view to improving, facilitating and expediting its application.

Article 59

This Decree shall be authenticated by the Ministry of Agriculture and Livestock.

Article 60

Communication, publication and transmittal to the Official Registry is hereby ordered.