

(As published in UPOV Gazette No. 94, December 2002)

SEEDSLAW –FARMER’S PRIVILEGE

Reference: 35/96 INASE

Date: 28-02-96

Modifica:

Subject: *Measures adopted in connection with the “farmer’s privilege” provided for in Article 27 of Law No. 20.247.*

Article 1. (The Directorate of the National Seeds Institute decrees that:) The conditions determining eligibility for the “farmer’s privilege” provided for in Article 27 of Law 20.247 are the following:

- (a) To be a farmer.
- (b) To have acquired the original seed legally.
- (c) To have obtained the present seed from that legally acquired;
- (d) To set aside from the harvested grain the amount of seed that will be used for subsequent sowing, distinguishing it by variety and quantity, prior to processing.

There shall be no farmer’s privilege where the farmer has acquired seed for sowing other than by setting it aside himself, whether free of charge or for consideration (purchase, exchange, donation, etc.).

- (e) The purpose of these seeds set aside to be sown by the farmer on his own farm and for his own use.

Purposes other than sowing by the farmer shall not be covered by Article 27 of Law No. 20.247.

The purposes of sale, permutation or exchange by the farmer himself through an intermediary are expressly excluded.

The exceptions shall benefit the farmer alone and not third parties.

- (f) These seeds set aside for the farmer’s own use shall be kept separate from the remainder of the grain, its identity and individuality being preserved from the time at which it is taken from the land by the farmer, and that identity shall be maintained throughout the process of processing, packaging and storage up to the time at which it is sown on the farmer’s land.

A person interested in availing himself of the farmer’s privilege shall prove compliance with the conditions set forth in this Article.

Article2. Neitherthebreeder’sauthorizationunderArticle44ofDecreeNo. 2183/91norlabellingoftheseedunderArticle9ofLawNo.20.247shallberequiredin thecaseofthefarmersettingaside,packaging,storing,depositingandsowingseedinany oftheplotsthatconstitutehisfarmwithoutalteringtheboundariesthereof.

ForthepurposesofthisArticle,“farm”meansthevariousplots oflandofoneand thesameowner,regardless of thenatureofthetenancy.

Intheeventoftheseedhavingtobemovedfromoneplotoflandtoanotherthat belongstothesameowner,themoveshallberecordedintherelevantdocumentation (waybill,consignmentnote,guide,etc.).Thedocumentationshallgivethenameofthe farmer,theplots oflandfromwhichtheseedcomesandforwhichitisdestined,the amountofseedanditsvarietyandthedatesofsendingandarrivaloftheseed;the documentationshallremaininthefarmer’spossession,and shallbepresentedorhanded overattherequestoftheNationalSeedsInstitute.

Wheretheseedpresentonthelandorfarmofthefarmeriscoveredbytheconcepts of“exposedtothepublic”or“deliveredtousersforwhateverreason”providedforin Article8ofDecreeNo.2183/91,theseedshallbelabelledandtheownershallhavethe authorizationoftheownerofthecultivar,inthecaseofprotectedvarieties,dependingon thevarious situationsprovidedforinArticle41(c),(d),(g),(h),(i)and(j)ofthesaid Decree.

Article3. Wherethefarmerdecidestopackageand/orstoretheseedofaprotected varietysetasideforhisownuseinacooperative,warehouse,plantordepositbelonging toathirdparty,whethernaturalpersonorlegalentity,heshall,sufficientlyinadvanceof theremovaloftheseedfromhisland,seekthepersonoftheownerofthevarietyin anrecordedcommunication(registeredletter,telegramwithadviceofreceipt,etc.).

Thebreeder -ownershallinformthefar merinarecordedcommunicationofhis acceptanceorjectionoftherequestforpermissionwithinaperiodnotexceeding30 workingdaysfollowingthedateofreceiptthereof.

Thesilenceofthebreederinresponsetotherequestforpermissionshallbe consideredacceptancethereofonexpiryoftheaforesaidperiod.

Article4. Thefarmerwhodeliversseedtoathirdpartyforprocessingand/or depositwithaviewtohisownusethereofshalltakeresponsibilityforitsidentity(variety ofthespecies),andshallstateontheidentificationlabel.

Article5. ForthepurposesoftheforegoingArticle,theprocessorordepository shallaskthefarmerforadocumentinduplicate,signedbythelatter,whichshall compulsorilycontainthefollowingparticulars:

- (a) Full name of the farmer, with, in the case of legal entities, corporate designation and the position occupied by the signatory within it, including the relevant confirmatory stamp or seal;
- (b) True address of the farmer or domicile in the case of legal entities;
- (c) Document number of the signatory;
- (d) Assurance that the intended purpose of the seed delivered is exclusively for the recipient's own use (Article 27 of Law No. 20.247);
- (e) Declaration, by the farmer, of the variety or varieties of seed to be delivered, with an express mention of the number of gross kilograms for each variety;
- (f) Declaration of the exact location of the plot or plots of the farmer's land on which the seed is to be sown, with specific details of the place in which it is situated (department, district, etc.), and the means of access to it from the place of processing;
- (g) Type of occupancy of the building or buildings specified in paragraph (f) (ownership, rental, leasehold, etc.);
- (h) Period, with the details of the probable starting or ending date of the sowing of the seed intended for own use on the property referred to in (f);
- (i) Period of time in which the seed in question will be held on deposit, and approximated date of removal.

Article 6. The documents shall be received by the processor or depositary, who shall record on it the date of receipt, and deliver the copy to the farmer, keeping the original in his possession.

The processor or depositary shall request of the farmer a copy of the breeder owner's authorization, or of the request for authorization in the event of refusal, in respect of each protected variety, which shall bear the signature of the farmer and be accompanied by the aforementioned document.

The processor or depositary shall be under the obligation to keep on file for a minimum period of 18 months following receipt, entirely on his own responsibility, all the documentation provided for in this Article.

If any of the particulars under Article 5 are different, the farmer shall draw up a new document in duplicate incorporating the changes, and shall hand it to the processor or

depository within a period not exceeding seven days of the change being observed, and the latter shall act as specified earlier.

Article 7. The document provided for in the foregoing Article shall have the character of a sworn statement by the farmer in which he assumes total responsibility for the particulars set down therein.

Similarly, the processor or depository shall be responsible for the veracity of the particulars reported by the farmer as specified in Article 5(a), (b), (c) and (i), having had to verify their accuracy.

Article 8. The processor or depository shall issue the farmer certificate of deposit for the seed that the latter hands to him for his own sowing, with pre-printed correlative numbering.

The certificate of deposit shall specify the proper name or corporate designation of the farmer and his address, the species and variety of the seed, its weight according to the official weighing carried out, a statement to the effect that it is seed for own use within the meaning of Article 27 of Law No. 20.247, the estimated date of delivery of the reserved seed to the farmer and a record of the farmer's submission of the authorization or authorizations of the breeder-owners in the case of protected varieties.

Article 9. Once the farmer's seed has been processed, the packaging shall bear a special label which shall differ in color and characteristics from the labels used for commercial seed, measuring not less than 10 cm x 20 cm on which shall be printed in distinct and readily legible lettering the notice "FARMER'S SEED FOR OWN USE; ARTICLE 27 OF LAW NO. 20.247."

The label shall compulsorily give also the following information:

- (a) Proper name of the farmer, or corporate designation in the case of legal entities, and private or business address;
- (b) Proper name or corporate designation, address and registration number in the National Register of Seed Trade and Control of the processor or identifier;
- (c) Name of the species;
- (d) Name of the variety;
- (e) Percentage of physico-botanical purity by weight, where lower than the values specified by regulation;

- (f) Percentage of germination by number, where below the values specified by regulation;
- (g) Net contents;
- (h) Year of harvesting;
- (i) "Treated seed -poison" in red lettering where the seed has been treated with toxic substances.

The following notices shall be added on the back of the same label, in a prominent place and in distinct capital letters: "The identity of this seed has been declared byin (address)..... This seed covered by this label may not be used for a purpose other than sowing on his land by the person named thereon as provided in Article 44 of Decree 2183/91. Any sale, marketing or delivery in whatever form is prohibited on pain of the possessors of the seed being liable to the sanctions provided for in Chapter VII of Law 20.247."

Article 10. The processor or depositary shall be the person responsible for the correct labelling of the seed as specified in the foregoing Article, namely in the form of labels supplied by the farmer or manufactured on his instructions, and for having the appropriate authorization or request for authorization in the event of refusal, for protected varieties supplied by the owner-breeder to the farmer as provided in Article 6 hereof. Where the farmer has not secured the authorization specified in the foregoing paragraph, the processor and/or depositary shall be under the obligation to serve notice on the breeder - owner to give his authorization in order that the packaging and storage of the said seed may proceed in accordance with Article 41 (b) and (i) of Decree 2183/91.

To that end he shall submit, together with the request for authorization, a copy of the document handed to him by the farmer under Article 5.

The breeders shall respond within the periods specified in Article 3, which provision shall apply fully to the present case. The processor, depositary or identifier who fails to comply with the obligations specified in this Article shall be liable to the appropriate sanctions under Chapter VII of Law No. 20.247.

Article 11. The documentations specified in the foregoing Articles shall be submitted to the inspectors of the National Seeds Institute at their request, on pain of application of the sanctions provided for in Articles 38 and 39 of Law No. 20.247.

Article 12. Where the breeder -owner refuses the authorization requested under Article 3 or 10 hereof, the farmer shall submit to INASE, without need for any advance notice, a copy of the requests submitted to the breeder and of the notice of refusal, duly signed by the person concerned, as all the documentations specified in Article 5 shall be.

The farmers shall likewise specify the proper name or corporate designation, address and registration number in the National Register of Seed Trade and Control of the processor or depository to whom or which his seed will be delivered, the period of time in which the seed will be processed and deposited, the probable date of its removal, subject to the recorded communication to the Certification and Control Directorate, with 30 days of advance notice, of the date of sowing of the seed and the designation of the land on which it will be sown, accompanied by a plan of the property and certified copies of the documentations supporting his ownership.

INASE, when in possession of the documentation required under this Article, together with such additional documentation as it may consider relevant, shall proceed to evaluate and verify the claimed down use and issue a finding thereon.

Failure by the farmer to submit all the documentation and information specified in this Article within the periods mentioned, and any additional documentation and information that may have been required, shall result in rejection of the request for the farmer's privilege under Article 27 of Law No. 20.247.

Article 13. The foregoing shall be communicated, published, conveyed to the Directorate of Official Registration and placed on record.