

PHILIPPINEN

Durchführungsbestimmungen zum Saatgutgesetz 7308.

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IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 7308 (OTHERWISE KNOWN AS THE SEED INDUSTRY DEVELOPMENT ACT OF 1992)

CHAPTER I. PRELIMINARY PROVISIONS

ARTICLE 1. *Title* – These rules and regulations shall be known as the Implementing Rules and Regulations (IRRs) of the Seed Industry Development Act of 1992 hereinafter referred to as the Seed Act.

ARTICLE 2. *Purpose* – The main objective of these rules and regulations is to ensure the proper, effective and efficient implementation and enforcement of the provisions of R.A. No. 7308 in order to enhance the development of the Philippine seed industry.

ARTICLE 3. *Coverage* – These implementing rules and regulations shall cover all government and private institutions, agencies, entities, and individuals involved in the seed industry.

ARTICLE 4. *Interpretation* – These rules and regulations shall be interpreted in accord with the declared policy of the state to promote and accelerate the development of the seed industry. For this purpose, the government shall:

Section 1. Conserve, preserve, and develop the plant genetic resources of the nation;

Section 2. Encourage and hasten the organization of all sectors engaged in the industry, integrate all their activities, and provide assistance to them;

Section 3. Consider the seed industry as a preferred area of investment;

Section 4. Encourage the private sector to engage in seed research and development and in mass production and distribution of good quality seeds; and

Section 5. Provide the local seed industry protection against unfair competition, as defined in Chapter II, Article 5, Section 17 of these IRRs, from imported seeds.

CHAPTER II. DEFINITIONS

ARTICLE 5. Definitions of Terms – When used in relation to the implementation of these rules and regulations, the following terms shall be defined as follows:

Section 1. “Seed” shall mean a plant material used for the production of food, forage, fibers, industrial crops, oil, flowers, grasses, herbs, and aquatic plants, including but not limited to, meristem and clonal propagules such tubers, corms, cuttings, seedlings, and micro-propagated plantlets;

Section 2. “Seed Lot” shall mean a definite quantity of seeds identified by a lot number or other identification marks, or every portion of the bag or any container, the contents of which uniformly represent the factors which appear in the label with allowable tolerances;

Section 3. “Breeder Seed” shall mean a seed directly controlled by the originating or in certain cases, the sponsoring plant breeder or institution and which provide the source for the initial and recurring increase of foundation seeds;

Section 4. “Foundation Seed” shall mean seed that is a progeny of breeder seeds so handled as to maintain satisfactory genetic identity and purity;

Section 5. “Registered Seed” shall mean the progeny of foundation or registered seeds that are so handled as to maintain satisfactory genetic identity and purity;

Section 6. “Certified Seed” shall mean the progeny of foundation or registered, or certified seeds that are so handled as to maintain satisfactory genetic identity and purity;

Section 7. “Good Seed” shall mean seed that may be produced from varieties not yet approved by the National Seed Industry Council and meeting the standards prescribed by the certifying agency. Any class of certified seed, in case it does not conform with the Council’s corresponding standards, may qualify as good seed.

Section 8. “Seed Industry” shall mean the different components of the chain of activities undertaken by individuals, associations, cooperatives, corporations or firms, academic institutions, public agricultural research institutes in the production, processing, testing, handling, grading, storage, distribution, and marketing of seeds for agricultural production with economic benefits;

Section 9. “Seed Testing” shall mean the accurate and prompt analysis of a seed sample to determine its quality based on methodologies prescribed by the Council and as provided for under Rule IV, Section 7 of the Implementing Rules and Regulations of Republic Act 7394 (otherwise known as the Consumer Act of the Philippines);

Section 10. “Seed Certification” shall mean a system of seed production geared towards maintaining the genetic identity, varietal purity and standards of quality seeds of superior crop varieties, as provided for under Rule IV. Section 7 of the

Implementing Rules and Regulations of Republic Act 7394 (otherwise known as the Consumer Act of the Philippines);

Section 11. “Quality Control” shall mean a systematic approach to determine, achieve, and maintain desired standards for seed quality;

Section 12. “Seed Sample” shall mean a quantity of seeds drawn from seed lots in accordance with the rules for seed sampling as provided for under Rule IV, Section 7 of the Implementing Rules and Regulations of Republic Act 7394 (otherwise known as the Consumer Act of the Philippines); properly, identified, labeled, and submitted for seed testing;

Section 13. “Label” shall mean any written, printed or graphic presentation in any manner on the seed container giving information in accordance with the rules and regulations as provided for under Rule V, Section 13 of the Implementing Rules and Regulations of Republic Act 7394 (otherwise known as the Consumer Act of the Philippines);

Section 14. “Seed Dealer/Trader/Merchant” shall mean any person, firm, agency, cooperative, or corporation engaged in the production, processing and/or marketing of seeds;

Section 15. “Seed Grower/Producer” shall mean any person, natural or juridical, engaged in the production, processing, distribution and/or marketing of seeds;

Section 16. “Seed Control” shall mean the regulation of seed marketing through registration of seed merchants/dealers, compulsory labeling, and establishment of minimum standards of seed quality.

Section 17. “Unfair Competition shall mean biased or prejudiced conditions describing a trade transaction as evidenced by the dumping of sale subsidized seeds and planting material. The test for dumping or sale of subsidized seeds and planting material is provided for under Part II, Section 301 and 302 of Presidential Decree No. 34 as amended or the Tariff and Customs Code of the Philippines.

Section 18. “Adequate Quantity” shall mean that the immediately preceding three-year average local production of a seed variety is not less than ninety (90) percent of perceived demand for the seed variety. Perceived demand is defined as the sum of the immediately preceding three-year average local production and the corresponding average annual imported volume plus an assumed 5% annual growth or higher. In the case of the latter, higher shall mean the rate certified by the National Seed Industry Council as requested by the private sector. Adequate quantity does not include the case where there is no production and no importation of a known seed variety.

Section 19. “Competitive Price” shall mean that the domestic price which is the price charged by seed wholesalers to seed dealers of locally produced seed variety in the vicinity of the point of entry is no more than the landed cost of the same and of identical quality imported seed variety plus applicable import duties and taxes. Landed cost is the prevailing CIF price in local currency units ex pier of the imported seed variety and other incidental costs incurred. The CIF price is the price, in the ordinary course of trade, for the product when destined for consumption in the exporting country;

or (b) in the absence of such, is (i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or (ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit, whichever is higher, plus the cost of insurance and freight. The import duty and tax rates prevailing at the time of petition shall be the rates applicable. For purposes of conducting the price comparison, the respective immediately preceding six-month averages of the domestic price and the CIF price of the seed variety shall be used, if available.

Section 20. “Unlawful Seed Lots” shall mean those seed lots displayed for sale infected with pests and/or diseases, seed lots sold by dealers with false documents and certification consistent with the objectives of the Key Commercial Crops Development Program of the DA, or from the Bureau of Plant Industry, or imported seeds without the proper phytosanitary documents and customs clearances.

CHAPTER III. GENERAL PROVISIONS

ARTICLE 6. The National Seed Industry Council

Section 1. A National Seed Industry Council, hereinafter referred to as the “Council,” is hereby created to replace the existing Philippine Seed Board.

Section 2. The Council shall be composed of the following, who shall serve in an *ex officio* capacity except for the representatives of the private sector:

- a) Secretary, Department of Agriculture (DA) – Chairman
- b) Director, Bureau of Plant Industry (BPI) – Vice Chairman and Executive Director
- c) Dean, College of Agriculture, University of the Philippines at Los Baños, Laguna (UPLB) – Member
- d) Director, Institute of Plant Breeding (IPB) – Member
- e) Crops Research Director, Philippine Council for Agriculture, Forestry and Natural Resources Research and Development (PCARRD) – Member
- f) Director, Philippine Rice Research Institute (PHILRICE) – Member
- g) Two (2) representatives from accredited farmer’s organizations – Members
- h) One (1) representative from the Philippine seed industry – Member

Section 3. The representatives of the private sector shall be nominated by their respective sector or association through the Executive Director of the Council. The

Executive Director shall forward the nominees for approval to the Chairman of the Council for a term of three (3) years. Only citizens of the Philippines can be members of the Council.

Section 4. Private sector representatives must have adequate training and experience on seed and seed related enterprises.

Section 5. Auxiliary members may be appointed for a term of three (3) years by the Chairman of the Council upon the recommendation of the Executive Director. These members shall be from the private sector and represent major agricultural sectors, including rice, corn, vegetables, fruits, ornamental, fibers and others. The nomination procedures for, and the qualifications of, these members shall be same as in Section 3 and 4 of this Chapter.

Section 6. The auxiliary members shall sit in all meetings of the Council and participate in its deliberations, sharing with the Council their expertise in their respective sectors. These members shall not have voting rights.

Section 7. In cases of vacancy, the appointed successors shall serve only the unexpired portion of the term of his predecessor. The nomination procedures for, and the qualification of, these successors shall be the same as in Section 3 and 4 of this Chapter.

Section 8. The BPI shall provide the necessary office space, facilities, and equipment for the Council.

Article 7. Powers, Responsibilities and Functions of the Council.

Section 1. The Council shall have the following duties, powers and functions:

- a) To formulate policies that will stimulate plant breeding activities for the development of the country's genetic resources in accordance with the provisions of the Seed Act;
- b) To encourage persons, associations, cooperatives and corporations engaged in genetic resources conservation and preservation, varietal development, production and processing, quality control, and storage, marketing and distribution of seeds to adopt systems and practices which will improve the quality of seeds for distribution to farmers/growers;
- c) To promote the establishment of infrastructures and other support services in priority areas geared towards the development of the seed industry;
- d) To formulate a comprehensive medium – and long term national seed industry development program in order to achieve self-sufficiency in the supply of high quality, readily available and affordable seeds and planting material;

- e) To award or facilitate the acquisition of grants and other forms of assistance to seed or plant breeders who develop or are developing outstanding varieties and cultivars, as well as to facilitate access of individuals or institutions involved in the various components of the seed program to various incentives and privileges as provided for in Chapter VIII of these IRRs;
- f) To draw up, after conducting public hearings as provided for in Chapter IX, Article 42, Section 3 of these IRRs, the list of seed varieties that will be subject to restrictions;
- g) To conduct public hearings/consultations with public and private sector participants in the seed industry in order to ensure that as many views as possible are considered in its formulation of policies and implementation of programs for the development of the seed industry;
- h) To provide assistance in registering and documenting patents of discoveries of new seed varieties developed by local seed producers;
- i) To provide legal assistance to protect the intellectual property rights of seed producers; and
- j) To conduct other such actions necessary to carry out and enforce the provisions of the Seed Act.

Article 8. Powers, Functions and Responsibilities of Chairman of the Council, Executive Director, and Council Members.

Section 1. The Chairman of the Council Shall:

- a) Preside over the meetings of the Council;
- b) Supervise the operations and administration of the Council; and
- c) Exercise such other functions and perform such other duties as may be vested in him by the Council.

Section 2. The Executive Director shall:

- a) Execute, direct, and implement the policies, rules, regulations, and resolutions issued by the Council;
- b) Assist in the administration, management, and supervision of the functional activities of the Council;
- c) Coordinate, monitor, and evaluate seed programs of different government agencies;
- d) Administer and manage the budgetary appropriations and financial disbursements of the Council;

- e) Supervise the Council and Technical Secretariats and maintain official records, files, and proceedings of the Council; and
- f) Perform other related duties and responsibilities as may be deemed necessary by the Council.

Section 3. The regular and auxiliary members of the Council shall:

- a) Assist the Chairman of the Council in the formulation and implementation of policies, plans, and programs;
- b) Provide the necessary expertise during the deliberations of the Council;
- c) Attend all Council meetings, conferences and activities; and
- d) Perform other Council – related activities that may be requested by the Chairman of the Council.

Article 9. Council Meetings

Section 1. The Council shall hold regular quarterly meeting. Special meetings can be convened by the Chairman of the Council when necessary or upon written request of at least three (3) members. A quorum shall be constituted by the presence of five (5) regular members, at least one of which is a private sector representative. At least one (1) auxiliary member shall be present in all Council meetings.

Section 2. The Council shall allow a duly authorized representative of a regular member to attend and participate in the meeting without the right to vote. An auxiliary member shall not be allowed to participate in meetings through a representative.

Section 3. The members of the Council shall not receive any compensation; Provided, that they shall be entitled to per diem and travel allowances for every attendance in meetings, as determined by the Council.

Article 10. Council Secretariat

Section 1. The Council shall have a Council Secretariat which shall provide the necessary technical, administrative, secretariat, and other support services to the Council.

Section 2. The Council Secretariat shall be under the direction and supervision of the Executive Director.

Section 3. The personnel of the Secretariat shall be appointed and their compensation fixed by the Chairman of the Council upon the recommendation of the Executive Director in accordance with Civil Service rules and regulations.

Section 4. The following positions for the Council Secretariat shall be created:

- a) One (1) Executive Assistant
- b) One (1) Legal Officer IV
- c) One (1) Supervising Agriculturist
- d) Three (3) Agriculturist III
- e) One (1) Executive Secretary
- f) One (1) Computer Operator
- g) One (1) Clerk III
- h) One (1) Utility Worker II
- i) One (1) Driver

Article 11. Technical Secretariat

Section 1. A Technical Secretariat, headed by the Executive Director, shall be constituted to assume the functions of the existing Philippine Seed Board Technical Working Groups and to provide technical support to the Council.

Section 2. The Technical Secretariat shall be composed of the heads of the following Technical Working Groups (TWG's), which will be composed of technical personnel from various institutions and agencies involved in the development of the seed industry:

- a) Rice Varietal Improvement Group,
- b) Corn and Sorghum Varietal Improvement Group,
- c) Vegetable Varietal Improvement Group,
- d) Rootcrops Varietal Improvement Group,
- e) Fiber Crops Varietal Improvement Group,
- f) Field legumes Varietal Improvement Group,
- g) Fruit and Plantation Crops Varietal Improvement Group,
- h) Ornamental Varietal Improvement Group,
- i) Crop Varietal Improvement Group,
- j) Seed Certification and Seed Standard Group,
- k) Seed Monitoring and Marketing Information Group, and
- l) Seed Extension Group.

Section 3. The Technical Secretariat shall establish seed standards and formulate systems and procedures for varietal identification, evaluation, nomination, review and approval for registration, commercial release, or discontinuation of crop cultivars or varieties in the National Agricultural Crop Production and Development Program. It shall also recommended to the Council policies, rules and regulations to develop and institutionalize crop varietal evaluation and release. Towards these ends, the Technical Working Groups shall have the following functions, duties and responsibilities:

- a) *Crop Varietal Improvement Groups* as enumerated in this Article, Section (a) to (i):
 1. Conduct field testing and performance evaluation of promising crop varieties and hybrids;
 2. Formulate procedures for varietal evaluation and identification; and

3. Perform other related functions that may be assigned to it by the Executive Director.
- b) *Seed Extension Group*
1. Develop and recommend seed promotion strategies and programs.
 2. Develop training modules and prepare training paraphernalia and other seed extension materials; and
 3. Perform other related functions that may be assigned to it by the Executive Director.
- c) *Seed Certification and Seed Standard Group*
1. Formulate and recommend guidelines, rules, and regulations on seed certification and seed standards;
 2. Formulate and recommend seed standards and procedures on field inspection, including plant materials certification; and
 3. Perform other related functions that may be assigned to it by the Executive Director
- d) *Seed Monitoring and Marketing Information Group*
1. Monitor and assess the implementation of the Seed Industry Development Program as well as other developments in the seed industry;
 2. Assist in the development and maintenance of a marketing information system; and
 3. Perform other related functions that may be assigned to it by the Executive Director.

Section 4. The members of the Technical Secretariat shall be appointed by the Chairman of the Council upon the recommendation of the Executive Director. However, the incumbent chairpersons of the different existing Philippine Seed Board Technical Working Groups shall continue to perform their work in a holdover capacity for a term of two (2) years, reckoned from the effectivity of these IRRs, and may be eligible for reappointment. Their compensation and tenure shall be fixed by the Chairman of the Council upon the recommendation of the Executive Director.

Section 5. Six (6) months before the expiration of their appointment, the members of the Technical Working Group shall elect their next head who shall organize the composition of the incoming membership of the working group.

Section 6. The members of each Technical Working Group shall not be less than five (5) but not more than fifteen (15).

Section 7. The Council shall allocate and release funds to the Technical Secretariat and Technical Working Groups to support the maintenance and operating expenses of approved activities implemented by these working groups.

Article 12. Facilities of the Council

Section 1. The Council shall establish and maintain seed program facilities involving farm machinery, post-harvest processing, drying, and storage as well as seed inspection and seed testing laboratory equipment, and seed promotion and marketing and other related seed industry development facilities.

Article 13. Funds of the Council

Section 1. There is hereby created a special amount in the general fund to be known as the Seed Fund which shall be obtained from the following sources:

- a) Five million (P 5,000.000) to be appropriated out of any funds in the National Treasury not otherwise appropriated,
- b) The existing Seed Fund,
- c) Revenue from the sale registered and certified seeds and plant materials, including but not limited to, the income derived from the products of DA/BPI research stations and seed farms, seed processing and testing fees for the issuance of permits to seed growers/products, and fines collected for violations of the Seed Act and these IRRs, and
- d) Donations from private or government agencies, other domestic or foreign: Provided, that said fund shall be held in trust by the BPI. Provided further, that the allocation, utilization and disposition of such funds shall be by and under the authority of the Council.

CHAPTER IV. THE SEED INDUSTRY DEVELOPMENT PROGRAM

Article 14. The Council, in consultation with the private sector, shall adopt a Seed Industry Development Program, hereinafter referred to as the “Program”, within ninety (90) days after it has been constituted. The Program shall be implemented by its constituent agencies.

Article 15. The DA shall be the overall responsibility of directing and coordinating the activities of the component agencies in accelerating the development of the seed industry. It shall finalize the Program through a process of consultations with the public and private sector participants in the seed industry, including both seed users and producers.

Article 16. The BPI shall implement and monitor developments and accomplishments of the program. A monitoring report shall be submitted to the Council yearly.

Article 17. The program may be revised and updated upon recommendation of the Council and after consultations with the public and private sector participants in the seed industry.

CHAPTER V. INSTITUTIONS AND AGENCIES INVOLVED IN THE SEED INDUSTRY DEVELOPMENT PROGRAM

Article 18. The DA shall have the overall responsibility for directing and coordinating the activities of its attached agencies and bureaus in implementing the Program. Thus:

Section 1. The BPI shall have direct responsibility for the distribution, regulation of breeder, foundation and registered seeds of all varieties developed by the government sector, and the implementation of the Program, including but not limited to, the management of the existing research stations and seed farms, seed testing laboratories, and certification services under a self-reliant management scheme. As such, it shall supervise, coordinate, and monitor the following activities.

- a) Production of breeder seeds through the institution which developed the variety, provided that such activity shall be coordinated and monitored by the Council Secretariat;
- b) Purification and maintenance of breeder seeds of recommended cultivars through the institution which developed the variety. Adequate quantities of breeder seed stocks shall be maintained and reserved for use to replenish and restore foundation seeds of the variety preferred;
- c) Production of foundation seeds which shall be done in the identified BPI National Seed Network which includes major Agricultural Colleges and Universities and other private agencies involved in varietal crop improvement; and
- d) Accreditation of growers of foundation and registered seeds of the commercially released cultivars.

Section 2. The PHILRICE shall develop appropriate rice varieties suited under Philippine conditions, propagate these into breeder, foundation, and registered seeds, and extend all necessary technical assistance to ensure the proper utilization of such seeds on the farm level.

Section 3. The Agricultural Training Institute (ATI) shall assist in the implementation of seed extension activities and training programs.

Article 19. The UPLB through the IPB shall provide the leadership in plant biotechnology activities related to plant improvement, genetic resources conservation, and in vitro mass production of planting materials.

Article 20. The PCARRD shall coordinate, evaluate, and monitor the research and development components of the Seed Program in line with the National Commodity Research and Development Programs.

Article 21. The Bureau of Investments (BOI) shall promulgate the necessary rules for the development of the seed industry as a preferred area of investment. It shall ensure that incentives provided for under E.O. 226 or the Omnibus Investment Code of 1987 to preferred investment areas are availed of by the seed producers.

Article 22. Other institutions mandated to engage in varietal development of other crops shall develop appropriate varieties of foundation and registered seeds adapted under Philippine conditions. These institutions shall also extend all necessary technical assistance to ensure the proper utilization of such seeds at the farm level.

Article 23. The Government agencies involved in the development of the seed industry shall encourage the private sector to engage in research and development, and in the mass production and distribution of high quality seeds.

CHAPTER VI. NATIONAL SEED QUALITY CONTROL SERVICES

Article 24. A National Seed Quality Control Services, hereinafter referred to as the "Services," shall be constituted in the BPI. It shall be supervised by the BPI Director in the manner of a common operating division headed by a division chief.

Article 25. The Services shall have control and supervision over field inspection, certification and seed control services, and seed testing laboratories which shall be established by the BPI in various parts of the country as are necessary to ensure the attainment of the purpose of the Seed Act.

Article 26. The Services shall perform the following function:

Section 1. Formulate plans and programs on seed quality control services and activities on seed testing, plant/seed materials certification, and other quality control schemes to be developed;

Section 2. Conduct seed samplings and analysis, and issue the corresponding reports of analyses of samples drawn from locally produced and imported seeds lots within the purview of the Seed Act;

Section 3. Conduct field inspection of seed crops, seed storage and processing facilities, and other activities required for seed/plant material certification, and issue the corresponding reports of inspections within the purview of the Seed Act;

Section 4. Conduct other related functions like seed research and seed technology training of its clientele;

Section 5. Collect, through the Seed Laboratories, and recommend to the BPI, reasonable fess for the testing of seeds, inspection of crop fields and facilities and issuance of permits and licenses in relation to activities of the Services;

Section 6. Supervise and coordinate all official seed testing laboratories in the regions and provincial satellite laboratories, as well as seed certification in all provinces and sub-provinces;

Section 7. Formulate and annually review regulations and standards for the accreditation of private seed testing laboratories; and

Section 8. Accredite private seed testing laboratories; and

Section 9. Perform such other functions as the BPI Director may deem necessary.

Article 27. Personnel, funds, and equipment of the existing Seed Certification Section of the BPI, as well as seed quality control services and the field seed inspection services of the DA are hereby transferred to the services.

Article 28. The BPI, as the seed certifying agency of the DA, shall enforce rules and regulations on seed certification through the regional field offices of the DA.

Article 29. The BPI Director, upon endorsement of the Regional Directors of the DA, shall recommend the appointment and deputization of the Seed Analyst, Seed Certification Officers and Seed Inspectors for the approval of the Secretary of Agriculture.

Article 30. Seed Testing Laboratories shall collect reasonable fees for the testing of seeds, inspection of crop fields and facilities, and issuance of permits and licenses in relation to the activities of the service, and in accordance with the government regulations and standards.

Article 31. The accreditation of private seed testing laboratories shall be approved by the Director of the BPI in accordance with the regulations and standards of the Services.

Article 32. At the regional level, the Services shall be coordinating with the DA Regional Director in order to enhance the delivery of services to the clientele and establish a mechanism to provide productive linkages with the Local Government Units (LGUs) in carrying out the provisions of the Seed Act.

CHAPTER VII. REGIONAL AND PROVINCIAL LINKAGES

Article 33. The existing designated Regional Seed Coordinators shall continue to perform the following function:

Section 1. Coordinate seed multiplication/production and certification, as well as the distribution of breeder, foundation and registered seeds in their respective regions;

Section 2. Assist the DA Regional Directors in the respective regions where they are assigned, in planning, coordination, monitoring, and evaluation of their respective provincial and regional seed programs;

Section 3. Establish linkages and working mechanisms with other government agencies, LGUs, Non-Government Organization (NGOs) and other Agricultural Institutions;

Section 4. Provide technical assistance to technicians, seed producers, and farmers; and

Section 5. Perform other functions related to seed industry development in the region.

Article 34. The Regional Chiefs of Seed Quality control Services shall perform the following functions:

Section 1. Plan, program, and implement policies, rules and regulations pertaining to seed quality control;

Section 2. Supervise and evaluate field inspection and certification activities of the Seed Inspectors;

Sections 3. Coordinate with different agencies involved in the seed program;

Section 4. Administer, manage, and direct laboratory seed quality control activities; and

Section 5. Submit reports of performance and accomplishments to the Central Seed Quality Control Services, BPI, Manila, furnishing copies to the Regional Director.

Article 35. Provincial Seed Coordinators, who are now all devolved to LGUs, shall coordinate and institutionalize linkages with their respective Regional Seed Coordinators. They shall perform the following functions:

Section 1. Assist the Provincial Agriculturist in the respective provinces where they are assigned, in the preparation and development of the provincial seed program;

Section 2. Coordinate, monitor, and evaluate the implementation of the provincial seed program in the different municipalities within the province; and

Section 3. Provide assistance to Seed Inspectors, Technicians and Seed Growers to ensure the production and distribution of quality seeds.

Article 36. Seed Inspectors, who are now all devolved to LGUs, shall coordinate and institutionalize linkages with the Regional Chief of Seed Quality Control Services and perform the following functions:

Section 1. Conduct field and seed inspection for certification and control purposes;

Section 2. Recommend the approval or rejection of seed growers' application for field certification;

Section 3. Submit preliminary and final field inspection reports to the Regional Seed Quality Control Services;

Section 4. Draw and submit seed samples for laboratory analysis;

Section 5. Conduct seed sampling, marking, tagging, and sealing of seed lots;

Section 6. Undertake inspection of seed processing facilities/equipment, warehouses and seed storage facilities; and

Section 7. Submit reports of performance and accomplishments of field inspection and certification to the Regional Chiefs of Seed Quality Control Services in the respective regions where they are assigned.

Article 37. All designations, assignments, and appointments of personnel for the seed program in the regions and provinces shall be approved by the Secretary of Agriculture, or his duly designated representative, upon the recommendation of the BPI Director with the concurrence of the DA Regional Director concerned.

Article 38. In case of disagreement between the parties concerned in the manner of the formulation of recommendations relative to the designations, assignments, and appointments of personnel for the seed program in the regions and provinces, the BPI Director shall make the final recommendation to the DA Secretary.

CHAPTER VIII. INCENTIVES AND PRIVILEGES

Article 39. The private sector may avail of the following incentives to develop the local seed industry:

Section 1. Individuals, farmers' organizations, cooperatives, and corporations wholly owned by Filipinos shall be entitled to government provided technical assistance, including training in seed technology, availment of seeds at cost, and access to results of research studies.

Section 2. Technical equipment used by individuals, farmers' organizations, cooperatives, and corporations wholly owned by Filipinos in seed production, such as irrigation, seed processing, sowing, meristem culture, storage, and quality testing equipment, shall be exempted from duties and taxes during their first five (5) years of operation subject to the following conditions:

- a) The equipment are not manufactured domestically in sufficient quantities of comparable quality and at reasonable prices;
- b) The equipment are reasonably needed and will be used exclusively by the importer in the operation of its business;
- c) Approval of the Council will be obtained prior to the importations;
- d) In case the importer transfers, sells, or disposes the equipment within five (5) years from acquisition without prior approval of the Council, he shall be solidarily liable with the transferee to pay double the amount of tax exemption given it. The Council may permit the transfer, sale, or disposition of said equipment within the said five (5) years if the said transfer, sale, or disposition is made to another person or entity enjoying similar incentives, or for the reason of the proven technical obsolescence

of the said equipment, or for the purpose of replacing said equipment to improve and expand the operations of the importer.

- e) The importer shall not enjoy a similar incentive under the Omnibus Investments Code of 1987. However, cooperative organized and registered under Republic Act No. 6938 shall be covered by Article 61, 62, and 63 of the said law pertaining to the tax exemption privileges of a cooperative.
- f) New and expanding private Filipino seed producers, shall enjoy the privilege of deducting from their gross income, for taxation purposes, the equivalent of two hundred percent (200%) of their expenses for research, development, extension, and marketing during the first five (5) years of their operation, in accordance with the rules and regulations to be promulgated for this purpose by the Department of Finance within ninety (90) days from the effectivity of the Seed Act.

Section 3. The importation of all seeds and planting materials for experimental and breeding purposes shall be duty free under Section 105 (r) of the Tariff and Customs Code of the Philippines; and

Section 4. Losses caused purely by natural calamities incurred by individuals, firms, entities, corporations, cooperatives, and farmers associations duly registered with the proper government agencies and primarily engaged in the seed industry shall be tax deductible.

Article 40. Companies/entities jointly or wholly owned by foreigners may avail of **incentives** and privileges provided by the BOI pursuant to the Omnibus Investment Code of 1987 and the Foreign Investment Act of 1991.

Article 41. The Council shall facilitate the registration and documentation of patents from **discoveries** of new seed varieties by local producers at both the national and international levels. The Council shall assist in protecting the intellectual property rights of local producers by providing legal assistance.

CHAPTER IX. RESTRICTIONS, SANCTIONS, AND PENALTIES

Article 42. Restrictions

Section 1. The importation of seed varieties which are easy to grow locally under ordinary conditions is prohibited. Seed varieties which are difficult to grow locally under ordinary conditions are exempt from this prohibition. These varieties are those which are neither locally produced in adequate quantities as defined in Chapter II, Article 5, Section 18, nor produced at competitive prices as defined in Chapter II, Article 5, Section 19 of these IRRs.

Section 2. Entities calling for the restriction of the importation of seed varieties exempt from the prohibition under Section 1 of this Chapter, should present proof or

evidence in a public hearing that said varieties are produced locally in adequate quantities and at competitive prices.

Section 3. The Council will issue list of prohibited varieties, only after due public hearings, every year. The said list will be reviewed yearly by the Council. The restricted list shall take effect 15 days after it has been published in two (2) newspapers of general circulation.

Section 4. The importation of seed varieties identified under Heading Number 12.09, Chapter 12 of Presidential Decree No. 34 as amended, otherwise known as the Tariff and Customs Code of the Philippines, shall be allowed at a three (3) percent tariff rate, consistent with the objectives of the Key Commercial Crops Development Program of the DA.

Section 5. The exportation of rare and indigenous species, varieties, lines and strains of seeds and planting materials is prohibited except for scientific or international germplasm exchange purposes as determined and certified by the Council. The exportation of endangered species, varieties, lines, and strains of plants such as those listed under the Convention of International Trade in Endangered Species (CITES) is also prohibited.

Article 43. Authority to Search and Condemn Unlawful Seed Lots

Section 1. Unlawful seeds lots, as defined in Chapter II, Article 5, Section 20 of these IRRs, shall be subject to search and condemnation procedures.

Section 2. The Executive Director or his duly designated representative is authorized to search, seize, and condemn seed lots labeled, identified, or imported in violation of the Seed Act and these IRRs.

Section 3. Before search and seizure of seed lots are conducted, a search warrant shall first be secured from the proper court and the same shall be served/enforced with the assistance of the Philippine National Police (PNP) or the National Bureau of Investigation (NBI).

Section 4. Should the seed lots so searched and seized be found after due hearing is suitable for condemnation, the Executive Director, in his judgment shall issue to his duly designated representative an order for condemnation of unlawful seeds lots, in which case the same shall be processed, re-labeled, or disposed of in such manner as he may deem appropriate. Prior to the condemnation of unlawful seeds lots, the claimants of such lots shall be given an opportunity to apply for the release of said seed lots or permission to process these in compliance with the Seed Act and these IRRs, subject to the payment of just compensation in the proper case.

Section 5. Owners of unlawful seeds lots searched and seized which can be re-labeled, processed or otherwise disposed may apply in writing to the Executive Director for permission to immediately undertake the necessary measures to avoid losses due to seed deterioration and/or court action. These measures shall be undertaken with the supervision of the Executive Director or his duly designated representative.

Section 6. The Executive Director or his duly designated representative shall inform in writing the owner/claimant of the results of the investigation conducted regarding searched and seized seed lots, prior to the issuance of a condemnation order. The condemnation order shall be issued at least fifteen (15) days after the owner/claimants receipt of such notice.

Article 44. Penal Provisions

Section 1. Any individual, firm, or association violating any provision of the Seed Act of these IRRs shall, upon conviction, be punished with a fine of not more than Ten Thousand Pesos (P 10,000) or imprisonment of not more than five (5) years, or both, at the discretion of the Court.

Section 2. In the case of a firm or association violating any provision of the Seed Act or these IRRs, the penalty of imprisonment shall be imposed upon the officer(s) who knowingly participated, abetted, or consented to the commission of such violations.

CHAPTER X. TRANSITORY AND FINAL PROVISIONS

Article 45. Funding

Section 1. The Department of Budget and Management (DBM) shall appropriate the necessary funding to carry out the provisions of the Seed Act under the General Appropriations Act every year.

Article 46. Repealing Clause

Section 1. All existing laws, rules, and regulations or parts thereof inconsistent with the provision of the Seed Act and these IRRs are hereby repealed, superseded, or modified accordingly.

Section 2. These rules and regulations shall supercede, amend, modify, or repeal the provision of Republic Act No. 7160 otherwise known as Local Government Code.

Article 47. Separability Clause

Section 1. If for any reason, any article or provision of these IRRs or any portion thereof or the application of such article, provision or portion thereof to any person, group or circumstance is declared invalid or illegal, the remainder of these IRRs shall not be affected by such decision.

Article 48. Amendments

Section 1. The Council upon recommendation to, and approval of, the DA Secretary, may as it necessary, amend, revise and/or add to these IRRs in order to fully implement the intent of the Seed Act.

Article 49. Effectivity

Section 1. These IRRs shall take effect fifteen (15) days upon submission to the University of the Philippines Law Center in accordance with the revised Administrative Code of 1987 (E.O. 290) and three days after its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

APPROVED:

SDG: ROBERTO S. SEBASTIAN
Secretary
Department of Agriculture