

ACTS SUPPLEMENT

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Act 3

Seeds and Plant Act

2007

THE SEEDS AND PLANT ACT, 2006.

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SCHEDULE

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THE SEEDS AND PLANT ACT, 2006.

An Act to provide for the promotion, regulation and control of plant breeding and variety release, multiplication, conditioning, marketing, importing and quality assurance of seeds and other planting materials and for other related matters.

DATE OF ASSENT: 30th January, 2006.

Date of commencement: 29th June, 2007.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.**1. Short title.**

This Act may be cited as the Seeds and Plant Act, 2006.

2. Interpretation.

In this Act, unless the context otherwise requires—

“agricultural value” means economic benefit expected from the production of a given crop;

“basic seed” means seed produced from breeders seed under the control of the plant breeder or his or her agent;

- “Board” means the National Seed Board established under section 3;
- “breeders seed” means seed of a particular variety, produced by the breeder (owner) of the variety or his or her agent, under the plant breeder’s supervision, which is the source of the initial and recurrent increase in seed production of a variety;
- “certified seed” means a class of seed produced under a certification programme from basic seed and can be of two generations;
- “certification service” means the National Seed Certification Service referred to in section 8;
- “check variety” means a local or exotic variety currently on the market with known genetic and agronomic characters that is used as a control variety in variety trials;
- “committee” means the National Seed Technical Committee established under section 6;
- “common catalogue” means the list of varieties that have been tested in more than one country and are eligible to be grown in those countries;
- “currency point” has the value assigned to it in the Schedule;
- “Director” means the Director responsible for Crop Resources in the Ministry;
- “imported seed” means seed of a prescribed variety imported by a registered seed merchant;
- “ISTA” means the International Seed Testing Association;
- “licenced seed testing laboratory” means a laboratory that is authorised to carry out official tests on the kinds of seed named in the licence issued by the National Seed Certification Service;

“listed variety” means any variety that has been released by the National Variety Release Committee;

“Minister” means the Minister responsible for agriculture;

“Ministry” means the Ministry responsible for agriculture;

“National Seed Testing Laboratory” means an official Government seed testing laboratory, which has been accredited to ISTA, and which is designated to carry out official seed tests and to issue official certificates;

“National Variety List” means a list of varieties released by the National Variety Release Committee which are eligible for multiplication;

“seed” means propagative material, plants and parts of plants intended for the propagation and multiplication of a variety;

“seed analyst” means a person qualified and designated to analyse seed samples according to the regulations of ISTA;

“seed conditioner” means a person engaged in the business of cleaning, treating or otherwise conditioning seeds intended for sale and who is licensed to do so;

“seed dealer” means a person trading in seed and who is licensed to do so;

“seed grower” means an individual or body that grows a crop intended to produce seed;

“seed inspector” means a person licensed to inspect seed crops and seed;

“seed merchant” means a person or organisation engaged in the business of seed production, conditioning and marketing, and who is licensed to do so;

“seed sampler” means a person licensed to sample seed lots in accordance with regulations made under this Act;

“species” means a group of interbreeding natural populations that are reproductively isolated;

“standard seed” means any seed which is not grown under a certification program but which may enter the market in case of certified seed shortage and which meets the same laboratory seed testing standards as certified seed;

“varietal name” means the name given to a specific variety by its breeder;

“variety” means a population of plants which have common ancestors and which have certain characteristics and when reproduced sexually or asexually, retain their distinguishing characteristics;

“variety release” means making available to the public, a variety for multiplication and use;

“voluntary certification” means certification requested by a seed producer for any of the species in the regulations made under this Act.

PART II—ADMINISTRATION

3. The Board.

(1) There is established a Board to be known as the National Seed Board under the Ministry.

(2) The Board shall consist of the following persons appointed by the Minister responsible for agriculture—

- (a) (i) the Director of Crop Resources in the Ministry, who shall be the chairperson;
- (ii) a representative of National Agricultural Research Organisation;
- (iii) a representative of the faculties of forest and nature conservation of universities in Uganda;

- (iv) a representative of faculties of agriculture of the universities in Uganda;
- (v) a representative of the farmers;
- (vi) a representative of the seed growers;
- (vii) a representative of seed merchants;
- (viii) a representative of the private plant breeders; and
- (ix) a representative from the agriculture extension service; and

(b) the following *ex-officio* members—

- (i) the commissioner of forestry in the Ministry responsible for forestry;
- (ii) the commissioner for crop protection in the Ministry, who shall be the secretary; and
- (iii) a representative of the Solicitor General.

(3) The Board may co-opt additional members to the Board as may be necessary.

(4) The members of the Board other than *ex-officio* members shall hold office for a period of 3 years and are eligible for re-appointment.

4. Functions of the Board.

(1) The functions of the Board are—

- (a) advising the Minister on the National Seed Policy;
- (b) advising the Minister on the informal seed sector and vegetatively propagated material;
- (c) advising the Minister on variety introductions, breeders seed production and maintenance;
- (d) establishing a system of implementing seed policies through technical committees;
- (e) formulating and advising the Minister on the regulations and standards controlling the development of the seed in distinctness, uniformity and stability;
- (f) constantly reviewing the national seed supply and advising the Minister on the administration of the seed in distinctness, uniformity and stability;
- (g) co-ordinating and monitoring the public and private seed sector in order to achieve the national seed industry objectives;
- (h) giving advice to plant breeding organisations on the market and farmers' requirements; and
- (i) performing any other related function under this Act.

5. Procedures of the Board.

(1) The Board shall meet at least four times in each year and at such times and places as it deems necessary for the transaction of its business.

(2) The Chairperson shall preside at all meetings of the Board and in his or her absence, the Board shall elect one of its members to act as Chairperson.

(3) The person presiding at a meeting of the Board shall have a casting vote in addition to his or her deliberative vote.

(4) The quorum of the Board shall be one-third of the voting members.

(5) The Secretary shall cause details of all business transacted at a meeting of the Board to be entered into a minute book kept for that purpose and the minutes of the proceedings of the meetings shall be submitted for confirmation at a subsequent meeting of the Board and if passed as correct shall be confirmed by the signatures of the Chairperson and Secretary and when so confirmed shall be *prima facie* evidence in all courts as an accurate record of the proceedings so recorded.

(6) The Board may regulate its own procedure.

(7) A member of the Board other than an *ex-officio* member shall cease to be a member of the Board and the office of that member shall be declared vacant by the Minister—

- (a) if he or she resigns in writing addressed to the Chairperson;
- (b) if he or she is certified to be insane or otherwise adjudged to be of unsound mind under any written law;
- (c) if, in the opinion of the Board, he or she becomes physically or otherwise incapable of discharging his or her duties as a member, and remains so for a period of ninety consecutive days;
- (d) if he or she is absent, without reasonable cause from three consecutive meetings of the Board;
- (e) if he or she is adjudged or otherwise declared bankrupt under any written law;
- (f) if he or she is sentenced to imprisonment for a term of six months or more for an offence involving moral turpitude;
or
- (g) if his or her term expires.

6. Technical Committee.

(1) There is established a technical committee to be known as the National Variety Release Committee, in this Act referred to as the Technical Committee.

(2) The committee shall consist of the following—

- (a) a pathologist;
- (b) three breeders;
- (c) a seed technologist;
- (d) a socio-economist;
- (e) an agronomist;
- (f) a representative of the Commodity Association;
- (g) an agricultural extension worker;
- (h) an entomologist;
- (i) a weed scientist; and
- (j) a forest breeder.

(3) The Board shall appoint a Chairperson of the Committee from among the members of the Technical Committee.

(4) The head of the certification service shall be the secretary to the Committee.

(5) The Committee may regulate its own procedure and may co-opt additional members as required.

(6) The Committee shall meet at least two times in a year.

7. Functions of the Technical Committee.

(1) The functions of the Technical Committee are—

- (a) to serve as a National Variety Release Committee;

- (b) to review and maintain the National Variety List and to approve new varieties;
- (c) to approve the release of new varieties and entry into the seed multiplication programme.

8. National Seed Certification Service.

(1) The National Seed Certification Service in the department responsible for crop protection shall be responsible for all matters related to seeds.

(2) The certification service shall be responsible for the design, establishment and enforcement of certification standards, methods and procedures and without prejudice to the generality of the foregoing shall be responsible for—

- (a) reviewing, adjusting, maintaining and enforcing seed standards;
- (b) advising the Board of modifications to seed standards and providing the Board with information on any technical aspects affecting seed quality;
- (c) providing training to persons responsible for the implementation of this Act;
- (d) registration and licensing of all seed merchants, seed conditioners and seed dealers;
- (e) receiving and testing of all new varieties intended for release and multiplication, assisted by the Technical Committee according to the recognised standard procedure;
- (f) carrying out distinctness, uniformity and stability tests for candidate varieties;
- (g) establishing standards for variety performance trials and distinctness, uniformity and stability trials;

- (h) monitoring the activities of the formal and informal seed sectors;
- (i) accreditation and licensing, field inspection, seed sampling and laboratory seed testing;
- (j) carrying out field inspection, testing, labelling, sealing and eventual certification;
- (k) reviewing the history and performance records of selected varieties;
- (l) determining the contribution of varieties for agricultural development;
- (m) making recommendations for degazetting of obsolete varieties; and
- (n) determining the varieties to be fully released, partially released (restricted release), referred, or rejected.

9. Variety testing, release and registration.

(1) All imported and domestic varieties shall undergo testing in variety performance trials for at least two main growing seasons before their release.

(2) For imported varieties, data from advanced yield trials shall serve as supportive evidence regarding the performance of a variety.

(3) The certification service shall advise the breeder on the appropriate method and period of test for—

- (a) agricultural value in an approved number of sites in their appropriate ecological zones;
- (b) agricultural value for ratoons, forest and fruit trees, fibres, ornamentals, beverage crops and other plants and zones for which a system of evaluation is not practicable.

(4) The naming of new varieties shall be the responsibility of the relevant plant breeders and shall be subject to approval by the Variety Release Committee.

(5) The Board may grant breeders rights for a variety of seeds on the recommendation of the National Variety Release Committee.

(6) The certification service shall be responsible for undertaking variety testing as required for the granting of plant breeders rights in accordance with relevant law.

(7) All plant breeders, both local and foreign shall apply to the certification service for the release of their varieties.

(8) A variety released under subsection (7) shall be eligible for certification and shall be entered on the National Variety List and East African Common Catalogue.

(9) The maintenance and supply of breeders seed shall be the responsibility of the breeders concerned and a reference sample shall be deposited with the certification service on initial release.

(10) All plant breeders of public or private institutions and importers of varieties for seed production in Uganda shall be registered with the certification service on payment of the prescribed fee.

(11) The breeder or applicant shall provide data for advanced yield, multi-locational trials for at least one main growing season from relevant agro-ecological zones.

(12) The breeder or applicant shall conduct on farm trials for one main growing season concurrently with variety performance trials.

(13) The certification service shall be responsible for conducting variety performance trials in a number of representative locations, but may delegate suitable organisations to carry out this function.

(14) Vegetatively propagated materials shall be evaluated for their genetic and agricultural values.

10. Multiplication and licensing.

(1) Subject to the provisions of this Act, there shall be recognised classes of seeds as may be set out in regulations made under this Act.

(2) All seed merchants and dealers shall be licensed on application to the certification service and shall pay a prescribed annual fee.

(3) The Minister may, by statutory instrument, declare any area as a segregated area and may, by that instrument, prohibit the planting and movement of any type of seed or plant within that area either for a specific period or until the revocation of the instrument.

11. Seed conditioner and conditioning.

(1) A seed conditioner shall be licensed on application to the National Seed Certification Services and on payment of a prescribed annual fee.

(2) To be licensed under this section a licenced seed conditioner is required to have—

- (a) suitable and adequate facilities for receiving, drying, cleaning, grading, treating and storing of seed; and
- (b) competent and trained staff capable of carrying out effective conditioning and testing of seeds to the required standards, as certified by the International Seed Certification Association.

(3) A licensed seed conditioner shall condition only seed lots which have been certified by the certification service.

12. Seed marketing.

(1) All seed offered for sale shall be properly labelled and sealed in accordance with the specifications set out in regulations made under this Act.

(2) A person who intends to import or export seed shall apply to the certification service for a licence in the manner prescribed by regulations made under this Act.

(3) Only seed of approved varieties and which—

(a) meets the standards established by the National Seed Certification Services for domestic seed trade; and

(b) are accompanied by a declaration of minimum certification standards on an ISTA certificate or domestic certificates and a phytosanitary certificate as provided in the Plant Protection and Plant Health Act,

shall be imported into Uganda.

(4) All seed intended for export shall comply with the requirements of the importing country.

(5) Genetically modified seeds will be regulated in accordance with the Uganda National Council of Science and Technology Act or any relevant law.

13. Seed testing laboratory.

(1) The Ministry shall, for the purposes of this Act establish national seed testing laboratories.

(2) The laboratories shall undertake seed testing and issue certificates as prescribed by regulations made under this Act.

14. Affixing labels.

The certification service shall affix appropriate official labels and seals to all certified seed classes and may delegate its authority to a licensed or accredited seed testing laboratory or seed merchant.

15. Reports and certificates.

(1) The certification service shall issue certificates authenticating the various certification classes of seed as prescribed in regulations made under this Act.

(2) The certification service shall issue to the Board periodical reports on its activities, as the circumstances may require.

16. Appeals tribunal.

(1) The Minister shall establish a Seeds and Plant Tribunal which shall conduct business as the need arises.

(2) Any person aggrieved by a decision under this Act may appeal to the Seeds and Plant Tribunal in accordance with regulations made under this Act.

17. Appointment of inspector and seed analyst.

The Minister, on the advice of the Board by notice in the *Gazette* may designate suitably qualified public officers to act as inspectors, seed analysts and registrars of Plant Varieties for the purpose of this Act and any regulations made under this Act.

18. Maintenance of registers, rolls, index or other official records.

The certification service shall have powers to maintain registers, rolls, index or other official records for the execution of its functions under this Act.

PART III—OFFENCES AND MISCELLANEOUS PROVISIONS.

19. Sale of prescribed seed under a different name.

(1) A person shall not sell any prescribed seed for sowing if—

(a) that prescribed seed does not conform to the standards of germination and purity prescribed for that seed;

(b) it is reported in the test report by a national seed testing laboratory or an accredited seed testing laboratory that the prescribed seed does not conform to the standards.

(2) A person who contravenes subsection(1) commits an offence.

(3) Upon conviction of any person for an offence under this section, the court may, in addition to any other penalty that it may impose, order the forfeiture or destruction, without any compensation of the sub-standard prescribed seed found in the possession or under the control of the person convicted.

(4) Sub-standard seeds shall be disposed of in accordance with regulations made under this Act.

20. Sale of prescribed seed under a different name.

Any person who sells for sowing, any seed under a description other than its varietal name, commits an offence.

21. Tampering with seed samples.

Any person who without lawful authority—

(a) tampers with any prescribed seed so as to produce any sample of that prescribed seed, taken for the purpose of this Act, and the sample does not correctly represent the bulk from which that sample was taken;

(b) tampers with any sample taken under this Act; or

(c) with intent to deceive, causes or permits to be sent to any seed testing laboratory to be tested for the purposes of any prescribed seed which to his or her knowledge does not represent the bulk from which it was taken;

commits an offence.

22. Altering official records.

Any person who, without lawful authority, alters, defaces or removes—

- (a) any register, roll, index or other official marking maintained in under regulations made under this Act; or
- (b) any entry appearing in any register, roll, index or other official record commits an offence.

23. Altering documents and marks.

Any person who, without lawful authority alters or defaces—

- (a) any certificate, report, invoice, account or other document prescribed, issued, furnished or kept under this Act or regulations made under this Act; or
- (b) any label, note, docket or mark placed upon any container under this Act or under any other requirement, condition or regulations made under this Act or removes any label, note, docket or mark from any container;

commits an offence.

24. Secrecy.

Any person who—

- (a) being a person employed for the purpose of this Act, publishes or communicates to any person without lawful authority any information acquired by him or her in the course of his or her employment; or
- (b) having possession of any information which, to his or her knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person,

commits an offence.

25. Penalties.

A person who commits an offence under this Act is liable on conviction, to a fine not exceeding ninety six currency points or to imprisonment for a term not exceeding four years or both.

26. Inspection of registers.

All registers and rolls maintained by the certification service under this Act shall, at all reasonable times, be open to inspection by any person applying to the head of the certification service on payment of the prescribed fee.

27. Exemption by the Minister.

The Minister may, on written recommendation from the Board, exempt any person or class of persons from the provisions of this Act.

28. Regulations.

(1) The Minister may, after consultation with the Board, make regulations for the control of breeding, multiplication, marketing, certification of seed and generally for the better carrying out of the provisions of this Act.

(2) The Minister may, in consultation with the Board, make regulations for the control of a prescribed or non prescribed seed which is not a Uganda certified seed and is produced by a seed producer on his or her own land, and is sold by him or her for sowing by a buyer or for the purposes of re-sale.

(3) Regulations made under this Act may prescribe in respect of the contravention of the regulations—

- (a) a penalty not exceeding two years imprisonment or a fine not exceeding forty eight currency points or both;
- (b) higher penalties for repeated offences;
- (c) that the court convicting an offender may require the offender to forfeit to the State anything involved in the commission of the offences, or the distribution of any such thing.

(4) The regulations may also prescribe fees to be paid for any service performed under this Act.

29. Repeal of Cap 28.

(1) The Agricultural Seed and Plant Act, is repealed.

(2) Any statutory instrument made under the repealed Act and in force on the coming into operation of this Act so long as it is consistent with the provisions of this Act, shall continue in force until revoked or amended under this Act.

(3) Subject to the provisions of this Act any licence or other authorisation granted under the repealed Act and anything done under that Act may continue to take effect as if done under this Act.

30. Amendment of Schedule.

The Minister may, by statutory instrument, and with the approval of the Cabinet, amend the Schedule to this Act.

SCHEDULE.

CURRENCY POINT.

A currency point is equivalent to twenty thousand Uganda shillings.

Cross references

Plant Protection and Plant Health Act, Cap. 31.

Uganda National Council of Science and Technology Act, Cap. 209.