

PLANT IMPROVEMENT ACT, 2018 (ACT NO. 11 OF 2018)

REGULATIONS MADE IN TERMS OF THE PLANT IMPROVEMENT ACT, 2018

I, John Steenhuisen, Minister for Agriculture, acting under section 58 of the Plant Improvement Act, 2018 (Act No. 11 of 2018), have made the regulations set out in the Schedule.



MR JOHN STEENHUISEN, MP
MINISTER: AGRICULTURE
DATE: 24-07-25

SCHEDULE

Arrangement of Regulations:

Chapter

- I. Definitions
- II. Application of Regulations
- III. Registration of Business and Premises
- IV. Conditions for Sale of Plants and Propagating Material
- V. Registration of Varieties
- VI. Schemes
- VII. General
- VIII. Tables

CHAPTER I: DEFINITIONS***Definitions***

1. Unless the context indicates otherwise, words and expressions in these regulations have the meaning assigned to them in the Act, and -

“*Cannabis sativa* L. (hemp)” means low THC plants or parts of plants of *Cannabis sativa* L. cultivated for agricultural or industrial purposes, of which the leaves and flowering heads do not contain more than 2% THC;

“*Cannabis sativa* L. (hemp) permit” means the permit issued by the Registrar in accordance with clause 4(2) to a person who intends to perform an activity with *Cannabis sativa* L. (hemp);

“certified” means certified in terms of a scheme contemplated in section 45;

“coated seed” means seeds covered with material that may contain pesticides, fungicides, dyes or other additives and includes the following:

- (a) encrusted seed – units more or less retaining the shape of the seed with the size and weight changed to a measurable extent;

- (b) seed granules – units, more or less cylindrical, including types with more than one seed per granule;
- (c) seed mats – broad sheets of material, such as paper or other degradable material, with seeds placed in rows, groups or at random throughout the sheets;
- (d) seed pellets – more or less spherical units, usually incorporating a single seed with the size and shape of the seed no longer readily evident;
- (e) seed tapes – narrow bands of material, such as paper or other degradable material, with seeds spaced randomly, in groups or in a single row;

"container" -

- (a) in the case of a plant, means the container in which such plant grows or is packed; and
- (b) in the case of propagating material, means the container in which such propagating material is packed, but does not include a shipping container in which such propagating material is imported;

"crop groups" refer to the categories of crops according to their general usage as agricultural, vegetable and fruit crops, specified in Table 1 for the respective kinds of plants;

"grain" refers to harvested material that is intended for consumption and processing, not for cultivation;

"inert matter", in relation to seed, means all material excluding other seed and pure seed which is present therein;

"introducer" means the person, including the agent, who introduces a variety into the local market on behalf of the breeder or when the breeder is not known;

"ISTA" means the International Seed Testing Association;

"lot" or batch means a quantity of plants or propagating material of which the properties are homogeneous to the extent required by the Act and these regulations and, if applicable, the scheme concerned;

"lot number" or batch number means a code number which a person has allocated to a particular lot of plants or propagating material for purposes of identification or traceability and which differs from the lot number allocated by him or her to any other lot of plants or propagating material;

"Medicines Act" means the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965) as amended;

"other material" -

- (a) in the case of coated seed, means all matter excluding the pure units of coated seed which are present therein;
- (b) in the case of seed of a specific kind which is uncoated, means all material, including other seed, which is present therein and is visually distinguishable from seed of the kind concerned; and
- (c) in the case of a mixture which is uncoated, means all matter, including other seed which is visually distinguishable from seed of the kinds comprising the mixture;

"other seed" -

- (a) in the case of seed of a specific kind, means all seed, irrespective whether it is of a kind to which the Act applies, which is present therein and is visually distinguishable from seed of the kind concerned; and
- (b) in the case of a mixture, means all seed, irrespective whether it is of a kind to which the Act applies, which is present therein and is visually distinguishable from seed of the kinds which are specified on containers of that mixture or on labels attached to the containers concerned, as kinds comprising that mixture;

"pest" means any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products

"PIA registration number" means the registration number assigned to a person or company for the registration of one or more types of business in terms of section 12 of the Act;

"port of entry" means a place through which plants and propagating material may be imported into the country in terms of section 43 of the Act;

"pre-packer" means the type of business where seed is packed into containers of limited size in accordance with the requirements specified in Table 4;

"pure seed", in relation to seeds of a specific kind, means all whole seeds of that kind and portions thereof which are larger than half the original size;

"pure units of coated seed", in relation to coated seed - means undamaged units, units with obvious cracks or fissures and damaged units larger than the original size, irrespective of whether those units contain any seed;

"restricted weed seed" means seed of the following plant species:

- (a) *Cuscuta* spp. – Dodder;
- (b) *Datura* spp. – Thorn apple;
- (c) *Solanum elaeagnifolium* Cav – Silverleaf bitter apple; and
- (d) *Stipa* spp. excluding *S. capensis* Thunb. and *S. dregeana* Steud.-
Serrated Tussock, Nasella;

"SAPS" means the South African Police Service;

"seed" means seed which is propagating material intended for cultivation;

"seed mixture" means a lot consisting of seed of varieties of various kinds of plants and/or various varieties of a kind of plant which, with a view to its usefulness for agricultural purposes, is obtained by mixing such seed in a particular proportion;

"Sealed" means a container of a seed lot or a submitted sample can be considered as sealed when it is closed in such a way that it cannot be opened to gain access to the seed and closed again without either destroying the seal or leaving evidence of tampering.

"THC" means (-)-transdelta-9-tetrahydrocannabinol that occurs in plants and parts of plants of *Cannabis sativa* L. (hemp);

"**the Act**" means the Plant Improvement Act, 2018 (Act No. 11 of 2018);

"**TPS**" means true potato seed in the botanical context, that is used to produce seedling tubers;

"**true to type**" with regard to a plant of a particular kind, means the plant corresponds with the description of the kind of plant concerned;

"**true to variety**", in relation to -

- (a) seed of a particular variety referred to in regulation 27, means that all plants cultivated from the seed concerned correspond to the description of the variety concerned, and are clearly distinguishable from any other variety of the same kind of plant ; and
- (b) plants and propagating material other than seed, of a particular variety referred to in regulation 46, means that all plants correspond to the description of the variety concerned and are clearly distinguishable from any other variety of the same kind of plant;

"**UPOV**" means an intergovernmental organization administering an international system of intellectual property (IP) rights that protect plant breeders' rights and encourage innovation in agriculture through the development of new varieties of plants.

"**UPOV code**" means the abbreviation of the scientific name for a kind of plant in accordance with the International Union for the Protection of New Varieties of Plants (UPOV) system;

"**unprotected variety**" referred to in regulation 5 (1), means a variety that is not protected by a plant breeder's right granted under the Plant Breeders Rights' (Act 12f 2018).

"**visually free**" means the physical examination of a plant or plant material where an employee or authorised person -

- (a) is unable to visually observe the occurrence or symptoms of a pest on that plant or plant material without using a microscope or magnifying glass; or
- (b) has visually observed the characteristic symptoms that are caused by a pest on a plant, but the testing, examination or analysis of that plant or plant material in a laboratory has not confirmed the presence of such pest on or in that plant;

“**withdrawal of application**” means voluntary withdrawal of an application by the applicant or agent whilst the application is still under consideration and before a decision could be reached on the compliance of the variety with DUS.

Chapter II: APPLICATION OF REGULATIONS

Kinds of plants declared in terms of the Act

2.(1) These regulations apply to the kinds of plants declared in terms of Section 2 of the Act by the Minister to the extent specified in column 1 of Table 1 for the kind of plant concerned.

(2) Varieties of the kinds of plants stipulated in Table 1 that are intended for a use other than what is indicated in column 5 of the said table for the kind of plant concerned, i.e. for

- (a) ornamental or decorative purposes excluding citrus and related genera or
- (b) sports fields or
- (c) green manure
- (c) use in an immature form (e.g., sprouts, microgreens)

are exempted from the application of these regulations.

Application for declaration of kinds of plants

3.(1) An application for the declaration of a kind of plant in terms of section 2(2) of the Act must be submitted to the Registrar in writing and must at least contain the following information:

- (a) name, address and contact details of the applicant;
- (b) scientific name of the genus and species concerned;

- (c) confirmation of the existence of any cultivated varieties of the kind of plant concerned;
 - (d) potential value for cultivation and use of the kind of plant, if available;
 - (e) information on whether the plants or variety require prior authorization for release under legislation concerning the protection of the environment, human and animal health; and
 - (f) in case of seed propagated kinds of plants, germination and purity data as required for inclusion in Table 4.
- (2) The Registrar must consider the application received and decide whether-
- (a) the kind of plant is eligible for declaration; and
 - (b) all or specific varieties must be listed for the kind of plant in accordance with regulation 54(2).
- (3) The Registrar must decide on the application within 30 days from receiving the application.
- (4) The Registrar must notify the Minister immediately after making the decision and request the Minister to publish a notice of declaration in the Gazette.
- (5) In instances where the kind of plant has been approved for declaration with an open list recognising all varieties, the applicant or respective industry, as applicable, may at any time request closing of the list in order to list specific varieties of the kind of plant concerned.

***Cannabis sativa* L. (hemp) permit**

4.(1) A person undertaking activities referred to in sub-regulation (2) relating to *Cannabis sativa* L. (hemp) must obtain a permit for one or more such activities from the Registrar.

- (2) A permit referred to in sub-regulation (1) relates to the following activities:
- (a) importation of plants or propagating material for breeding, research or cultivation;
 - (b) propagation of plants by a breeder or researcher in relation to a breeding or research program to develop new or improved hemp varieties;
 - (c) sale of *Cannabis sativa* L. (hemp) seed, seedlings, plants or cuttings;
 - (d) cultivation of hemp for -
 - (i) seed production;
 - (ii) seedling production;

- (iii) production of grain or material for industrial purposes;
 - (e) cleaning and conditioning of seed for cultivation; and
 - (f) export of plants or propagating material for cultivation purposes.
- (3) An application for a *Cannabis sativa* L. (hemp) permit must be submitted on the form obtainable from the Registrar and must be accompanied by proof of payment of the fee specified in item 9(a) of Table 2.
- (4) The Registrar must consider each application and after evaluation of the information provided, issue a *Cannabis sativa* L. (hemp) permit to the applicant, if all the requirements have been met.
- (5) A *Cannabis sativa* L. (hemp) permit issued in terms of sub-regulation (4) is valid for a period of 5 years;
 - (b) renewable once after the initial period for a further 5 years on payment of the fee specified in item 9(b) of Table 2, where after a new application must be submitted and accompanied by the fee specified in item 9(a) of Table 2
 - (c) not transferable to another person.
- (6) The permit holder must notify the Registrar of any change with regard to information in the permit after issuance thereof, within 30 days of the occurrence of the change or becoming aware of the change:
 - (a) change in the contact details of the permit holder, including postal address;
 - (b) change in the name of the business or premises;
 - (c) change in the physical address where the authorized activity is to be conducted;
 - (d) change in the person responsible for or supervising the activity on the premises; and
 - (e) change in the ownership of the premises where the authorized activity is to be conducted, if the permit holder is not the owner.
- (7) The Registrar may revoke a permit if the permit holder –
 - (a) requests revocation thereof in writing;
 - (b) stops the activities for which the permit was required;
 - (c) has failed to notify the Registrar of any change of information as stipulated in sub-regulation (6);
 - (d) perform any activity not authorized on the *Cannabis sativa* L. (hemp) permit and
 - (e) infringes any of the provisions of these regulations or the Act.

(8) The holder of a *Cannabis sativa* L. (hemp) permit for cultivation must submit a notice of planting to the Registrar on the form obtainable from the Registrar within 30 days from planting and a copy thereof must be submitted to each of the nearest office of SAPS and Inspection Services of the Department.

Exemption for plants and propagating material

5. (1) For purposes of section 23(2)(a) of the Act, the non-commercial scale for cultivation and sale of unprotected variety of any kind of plant regulated under the Act refers to cultivation and sale in limited quantities and mainly intended for use by -

- (a) household/ subsistence producers/farmers who produce primarily for household consumption and may have a limited surplus production for selling; and
- (b) smallholder producers/farmers who produce for household consumption and derive a source of income from agriculture activities.

(2) The maximum amount of seed per variety imported or sold by a person on a non-commercial scale stipulated in sub-regulation (1), is specified in Table 3, limited to the amounts indicated in column 2 per year and column 3 per container for the respective kind of plant.

(3) In cases where the amount of seed for a variety exceeds that indicated in column 2 or 3 of Table 3 for the respective kind of plant, the exemption from the provisions of the Act for national listing is no longer applicable.

(4) The provisions of sub-regulations (1) to (4) shall not apply to plants and propagating material of hemp.

Exempted types of business

6.(1) The following types of business are exempted from registration in terms of section 19 of the Act:

- (a) import and export of plants or propagating material by agents that only take care of documentation and the clearing processes of consignments on behalf of importers or exporters, provided that the agents themselves are not involved in the sale of plants and propagating material;
- (b) selling of seed limited to non-commercial varieties contemplated in section 23(1)(d) of the Act and in accordance with the limitations specified in Table 3, subject to the provisions of regulation 5(3);
- (c) running of a nursery where -

- (i) only seedlings of the kinds of plants of which the seed is regulated in terms of this Act are grown and/or sold, except for *Cannabis sativa* L. (hemp); and
 - (ii) only plants and propagating material of non-commercial varieties contemplated in section 23(1)(d) of the Act and subject to the provisions of regulation 5(4) are grown and/or sold;
- (d) the following facilities for research and/or conservation purposes:
- (i) *in vitro* or tissue culture facility;
 - (ii) gene bank (seedbank and/or field gene bank), (e) the following laboratories: –
 - (i) analytical laboratory conducting analytical services relating to chemical compounds in plant material;
 - (ii) molecular laboratory performing any type of genetic analysis or varietal identity on plant material

(2) Notwithstanding the provisions of sub-regulation (1)(b) to (d), an application for registration may be submitted if required by the person or in order for the business to comply with a certification scheme contemplated in section 45 of the Act or a type of national, regional or international certification.

(3) The exemption for registration of a business shall not apply to any type of business relating to *Cannabis sativa* L. (hemp), except for multiplication facilities referred to in sub-regulation (1)(d) that are not multiplying for the purpose of selling plants or propagating material and laboratories referred to in sub-regulation (1)(e).

Exempted premises

7.(1) Premises shall be exempted from registration in terms of section 19 of the Act if –

- (a) only seed that has been prepacked at premises registered in terms of section 10 of the Act, is sold in the original unopened containers in which it was thus prepacked;
- (b) only seed potatoes are produced and/or sold for cultivation purposes; and
- (c) only plants originating from a nursery registered in terms of section 10 of the Act, is sold there: Provided that the seller of such plants must on demand furnish written proof that the plants originate from such nursery or premises.

(2) The exemption for registration of premises shall not apply to any premises relating to plants and propagating material of *Cannabis sativa* L. (hemp), except for multiplication facilities and laboratories referred to in regulation 6(1)(d) and (e).

Application for exemption from registration of business and premises

8.(1) Application for exemption from registration referred to in section 19(2) of the Act for any other type of business or premises than referred to in regulations 6 and 7, must be submitted to the Registrar in writing, indicating –

- (a) whether exemption is sought for business only or for both business and premises,
- (b) the type of business for which exemption is sought;
- (c) the kinds of plants relating to the plants and propagating material which are intended to be propagated and/or sold by the business or from the premises, and
- (d) motivation for the request.

(2) The Registrar must consider the application received and after consultations with the applicant, if required, submit a recommendation for consideration by the Minister.

(3) The Registrar must notify the applicant in writing within 30 days of receiving the decision from the Minister and publish a notice in the Gazette, if approved by the Minister.

CHAPTER III: REGISTRATION OF BUSINESS AND PREMISES

Register of businesses and premises

9.(1) The register of businesses and premises kept by the Registrar must at least contain the following information:

- (a) PIA registration number issued to each person or company registering one or more types of business and subsequent registration numbers for all premises registered in relation to that business;
- (b) name under which the business will be conducted;
- (c) postal and physical address of the business;
- (d) name and contact details of owner or person in charge of the business;
- (e) name and physical address of each premises in relation to the business;
- (f) name and contact details of person in charge of the premises;
- (g) type of business conducted on each premises;
- (h) crop groups that are handled at the respective business and premises;

- (i) starting and expiry date of registration period; and
- (j) any amendment of information in accordance with section 15(2) of the Act.

(2) Any person requiring a copy of a document relating to particulars in the register, must -

- (a) apply in writing to the Registrar; and
- (b) pay the fee specified in item 2 of Table 2 and provide proof thereof to the Registrar.

Certificate of registration for business and premises

10.(1) The registration certificate issued in terms of section 12(1) of the Act in respect of a business registered without premises, must contain at least the following information:

- (a) PIA registration number;
- (b) name of the person or company under which the business is registered;
- (c) name of the person in control of the business, if different from paragraph (b);
- (d) physical and postal address, as applicable;
- (e) types of business, as applicable;
- (f) crop groups or kinds of plants as applicable; and
- (g) date of registration.

(2) The registration certificate issued in terms of section 12(2) of the Act in respect of each business premises must contain at least the following information:

- (a) PIA registration number of the business premises;
- (b) name of the premises, if different from sub-regulation (1)(b);
- (c) the details specified in sub-regulation (1)(b) and (e);
- (d) physical and postal address of the premises, if different from sub-regulation (1)(d);
- (e) name of the person in control of the premises, if different from (1)(c);
- (f) relevant type of business conducted on the premises;
- (g) crop groups or kinds of plants as applicable for the premises; and
- (h) duration of the registration period.

(3) In cases where a type of business is conducted from a mobile facility, the certificate must contain the information specified in sub-regulation (2), except for (2)(d) where the information must be replaced with details of the mobile unit.

Return of certificate of registration

11. Upon termination of the registration of a business or premises in terms of section 20 of the Act, the relevant certificate of registration must be collected by the Registrar within 90 days of the date of termination in accordance with section 21(2) of the Act.

Application for registration of business and premises

12.(1) An application for the registration of business and premises in terms of section 11 of the Act, must be submitted on the form obtainable from the Registrar for this purpose and accompanied by –

- (a) a locality sketch or map and Global Positioning System (GPS) coordinates which clearly indicate where the premises concerned is situated;
- (b) proof of payment of the fee stipulated in item 7.1(a), (b) or (c), as applicable, of Table 2 relating to the type of business; and
- (c) if hemp is one of the kinds of plants with which business is intended to be conducted, a copy of the valid hemp permit.

(2) In the case of an application in terms of section 11(1)(a) only, the documents referred to in sub-regulation (1)(b) and (c) must accompany the application.

(3) An application for any additional type of business or premises with a valid registration in terms of section 11, must be made on an application form obtainable from the Registrar which must be submitted with proof of payment of the fee specified in item 7.1(a), (b) or (c), as applicable, of Table 2.

(4) An application for the registration of a laboratory as a type of business on the same premises as other types of registered business, must be submitted on a separate application for registration of such a laboratory and must be submitted on the form obtainable from the Registrar and accompanied by the documents referred to in sub-regulation (1)(a) and (b).

Notification of change of circumstances

13.(1) The person in whose name a type of business or premises has been registered, must notify the Registrar in writing in terms of section 15 of the Act within 30 working days of a change in any of the following circumstances or when becoming aware of such change with regard to that business or premises:

- (a) change in the contact person or contact details, including postal address;
- (b) change in the name of the business or premises;
- (c) relocation of the business to another address;

- (d) change in the person in charge of the premises; or
- (e) change in the ownership of the business.

(2) If the change relates to that stipulated in sub-regulation (1)(c) to (e), an inspection of the premises must be conducted and the new owner or person in control, as applicable, evaluated to determine compliance in terms of section 12 of the Act, prior to the issuance of a new registration certificate.

(3) A notice for change in information referred to in sub-regulation (1) that requires the issuance of a new certificate, must be accompanied by proof of payment of the fee specified in item 8 of Table 2.

Application for renewal of registration of premises

14.(1) Application for the renewal of a registered premises referred to in section 16(1) of the Act, must be submitted by the person to whom a certificate of registration has been issued on the form obtainable from the Registrar for that purpose.

(2) The application for renewal of premises must be accompanied by proof of payment of the fee specified in item 7.2 of Table 2.

(3) Any changes that are required to be made at the time of renewal, must be indicated on the renewal application and in case of changes referred to in regulation 13 (1)(c) to (e), inspection is required before a decision for renewal of the registration is made.

Records and reports

15.(1) Businesses and premises registered in terms of section 12 of the Act, must comply with the following requirements relating to records:

- (a) keeping of records in accordance with the requirements specified in the regulations relating to the respective type of business;
- (b) in case of business relating to hemp, keeping of records in accordance with the respective hemp permit requirements as applicable;
- (c) in cases where different types of business of the same company are conducted on the same premises, the records in respect of a lot that went through the respective processes of each such business, may be kept jointly;
- (d) preservation of the records referred to in paragraphs (a) and (b) at the premises of the type of business concerned, or such other place as determined by the management of the company concerned for safekeeping, for at least three years after the date on which the lot

concerned was removed, delivered or sold, or in the case of laboratories, the sample concerned was tested, examined or analysed, as the case may be.

- (e) upon request by the Registrar, submit a written report within 30 days of the request, indicating -
 - (i) the required particulars regarding the contents of any records kept in terms of paragraphs (a) to (c); and
 - (ii) the quantity of plants or propagating material, as applicable, and such information relevant for a specified period relating to specified kinds of plants and varieties.

Requirements for a business relating to seed

16. (1) The types of business relating to seed stipulated in section 9(1)(a) to (c) of the Act, may be registered if the owner and person in direct control, as applicable, –

- (a) have a sound knowledge and understanding of the requirements of the Act, the facilities, equipment and practices for operating such seed facility as applicable.
- (b) have available premises or access to premises or a mobile facility for the services and kinds of plants or crop groups as indicated on the application form.

(2) Premises on which business relating to seed is conducted, may be registered and the registration thereof may be renewed if -

- (a) the place where seed is kept on the premises concerned -
 - (i) is an enclosed structure with a solid floor and, where required, ensure controlled access to seed;
 - (ii) has efficient lighting so that any marks, printing or writing on containers of seed or on labels attached to such containers may readily be read;
 - (iii) has efficient ventilation so that excessive humidity and high temperatures which may detrimentally affect seed are prevented; and
 - (iv) is kept in an orderly, tidy and clean condition at all times;
- (b) the available facilities and equipment at the premises concerned are adequate and sufficient to ensure the satisfactory conduct of the service relating to the kinds of plants and varieties of seed handled there;

- (c) seed is handled and stored at the premises concerned in such a manner that -
 - (i) it is protected against damage by pests;
 - (ii) in case of a cleaning and conditioning facility, uncleaned seed and screenings are kept separate from cleaned seed;
 - (iii) cleaned seed at cleaning and conditioning facilities and cleaned seed at prepacking and seed selling businesses, is kept separate from anything else that is not seed, by storing it in separate stores, or by dividing it by means of solid partitions;
 - (iv) each seed lot is separated by a space of at least one metre from another seed lot to ensure unobstructed access to each lot; and
 - (v) admixing of seed of different kinds of plants is prevented, except if seed mixtures are being made intentionally in accordance with the provisions of regulation 33 or when adding a pollinator;
- (d) at a cleaning and conditioning facility, the following are marked, printed or written on the containers of uncleaned seed at such premises, or on labels attached to the containers concerned –
 - (i) the words "uncleaned seed";
 - (ii) the kind and variety of the seed concerned; and
 - (iii) the name and address of the person from whom the seed concerned was received;
- (e) at facilities other than indicated in paragraph (d), the applicable particulars required in terms of these regulations, are marked, printed or written on seed containers, or on labels attached to the containers concerned;
- (f) seed intended for selling must comply with the requirements stipulated in Table 4 for the respective kind of plant concerned;
- (g) in the case of hemp seed -
 - (i) received for cleaning and conditioning, prepacking or selling, request the hemp permit, acknowledgement of planting notification and transport declaration, as applicable, from the person who provided the seed;
 - (ii) presented for sale, ensure that each buyer of hemp seed is in possession of a valid Hemp Permit for the purpose for which the seed is bought; and

(ii) furnish the buyer or carrier with a transport declaration and retain a copy thereof;

and

(h) the person in direct control of the premises has knowledge and understanding of the requirements of the Act, the facilities, equipment and practices for operation of such activities.

(3) When the person in direct control of the premises or operations is replaced, the registration of the premises will only be renewed if the new person has the knowledge and understanding referred to in sub-regulation (2)(h).

(4) In case of a mobile facility, the provisions of sub-regulations (1) and (2)(b), (c)(v), (e) to (h) and sub-regulation (3), as applicable, must be complied with.

Records at businesses and premises where propagating material is cleaned and conditioned

17. (1) The owner or person in control of a premises at which the business of cleaning and conditioning of seed for sale is conducted must, in respect of all seed handled there, keep complete records of -

- (a) the date on which the seed concerned was received;
- (b) the kind and variety of the seed concerned;
- (c) the name and address of the person from whom the seed concerned was received;
- (d) the total mass of the seed concerned and the number of containers in which it was contained;
- (e) the total mass of the cleaned seed and the number of containers in which it was contained;
- (f) the lot number of the cleaned seed, and if such seed was certified after cleaning, also the number of the certificate issued in respect thereof;
- (g) the names and addresses of the persons to whom the cleaned seed was supplied;
- (h) the mass of cleaned seed which was supplied to each such person; and
- (i) the dates on which the cleaned seed was so supplied.

Records at businesses and premises where seed is prepacked

18. (1) The owner or person in control of a premises at which the business of the prepacking of propagating material for sale is conducted must, in respect of each lot of propagating material handled there, keep complete records of -

- (a) the date on which the lot concerned was received;
- (b) the kind and variety of the seed in the lot concerned: Provided that, in the case of a mixture, the names of the kinds of plants and varieties presented therein, as well as the percentage contents of each, must be recorded;
- (c) the name and address of the person from whom the lot concerned was received;
- (d) the total mass or number of units of the seed in the lot concerned;
- (e) the lot number of the lot concerned;
- (f) the number of the certificate issued in respect of the seed in the lot concerned if that seed was certified; and
- (g) the date on which prepacking of the lot concerned was completed.

Records at businesses and premises where seed is sold

19. (1) The owner or person in control of the premises at which the business of the selling of seed is conducted must, in respect of each seed lot which is handled there, keep complete records of -

- (a) the date on which the lot concerned was received;
- (b) the kind and variety of the seed in the lot concerned: Provided that in the case of a mixture, the names of the kinds of plants and varieties presented therein, as well as the percentage contents of each, must be recorded;
- (c) the name and address of the person from whom the lot concerned was received;
- (d) the total mass or number of units of the seed in the lot concerned and the number of containers in which it is packed;
- (e) the lot number of the lot concerned;
- (f) the number of the certificate issued in respect of the seed in the lot concerned if that seed was certified; and
- (g) the date on which the lot concerned was sold out.

Requirements for the business of running a nursery and other multiplication facilities

20. (1) The type of business for a nursery or other multiplication facility stipulated in section 9(1)(d) of the Act, may be registered if the owner and person in direct control or responsible official, as applicable-

- (a) have a sound knowledge and understanding of the requirements of the Act, the facilities and practices for operating such a facility;
- (b) have available premises or access to premises to conduct the business in respect of the kinds of plants or crop groups indicated on the application form; and
- (c) in the case of hemp, ensure compliance with hemp permit requirements and only buy from or sell to people in possession of a valid hemp permit.

(2) Notwithstanding the exemption for registration of the multiplication or conservation facilities referred to in regulation 6(1), an application for the business and premises of such facility may be submitted, provided the respective conditions in these regulations are complied with.

(3) Premises on which the business of a nursery is conducted may be registered and the registration thereof renewed if -

- (a) the premises concerned is kept free from volunteer plants and effective weed control is applied;
- (b) plants are cultivated in such a manner at the premises concerned that -
 - (i) they are protected against damage or contamination by pests;
 - (ii) different kinds of plants and varieties of plants are kept in separate groups so that access to each group can be readily obtained and, where required, ensure controlled access to plants;
 - (iii) different kinds of plants and varieties of plants are identified by means of suitable and clearly legible name boards or labels in accordance with regulation 47; and
 - (iv) in the case of plants and propagating material which are certified, the requirements relating to the keeping and storage thereof as determined in the scheme concerned, are complied with;
- (c) the place where plants are sold on the premises concerned -
 - (i) has efficient lighting so that any marks, printing or writing on containers of plants or on labels attached to plants or containers may readily be read; and

- (ii) is kept in an orderly, tidy and clean condition at all times;
 - (d) plants that are kept for sale or, in the case where such plants are packed in bundles, each separate bundle is provided with a label on which the information referred to in sub-regulations (1) and (2) of regulation 47 is indicated;
 - (e) the plants comply with the requirements stipulated in regulation 46;
 - (f) in the case of hemp, ensure that each buyer of hemp plants or seedlings is in possession of a valid hemp permit for the purpose the plants are bought and furnish the buyer or carrier with a transport declaration while retaining a copy thereof; and
 - (g) the person in direct control of the premises has knowledge and understanding of the requirements of the Act, the facilities, equipment and practices for operation of such activities.
- (4) Premises on which the business of a multiplication or conservation facility referred to in regulation 6(d) is conducted, may be registered and the registration thereof renewed if -
- (a) the available facilities and equipment at the premises concerned are adequate and sufficient to ensure the satisfactory conducting of the multiplication or conservation service relating to the kinds of plants and varieties which are handled there;
 - (b) the identity of all samples and accessions introduced and handled/conserved are maintained throughout the various processes;
 - (c) documentation of data and information about the material, including passport data and source information are recorded;
 - (d) the relevant protocols and operational procedures are in place;
 - (e) the responsible official of the technical operations at the premises is in possession of the relevant qualifications required for the operation of such facility; and
 - (f) the person in paragraph (e) has sufficient knowledge and understanding of the requirements of the Act, the facilities, equipment and practices for conducting the operations at the premises.
- (5) When the person in direct control or responsible official referred to in sub-regulations (3)(g) and (4)(e) of the premises or operations as applicable is replaced, the registration of the premises will only be renewed if the new person complies with the requirements stipulated in the respective sub-regulations.

Records at nurseries and other multiplication or conservation facilities

21. (1) The owner or person in control of a nursery must, in respect of each lot or batch of plants cultivated there for sale, keep complete records of -

- (a) the date on which the lot or batch concerned was made available for sale;
- (b) the kind and variety of the plants in the lot or batch concerned;
- (c) the number of plants in the lot batch concerned;
- (d) the lot number of the lot or batch concerned; and
- (e) the number of the certificate issued in respect thereof if the plants in that lot or batch were certified.

(2) The owner or responsible person of the technical operations at a multiplication or conservation facility must, in respect of each lot or batch or accession received and maintained there, keep complete records of -

- (a) the date on which the samples or accessions were received;
- (b) the kind of plant and variety name or accession number of the material concerned;
- (c) the name and address of the person from whom the material concerned was received;
- (d) the amount of the material concerned and the number of containers, as applicable;
- (e) the lot/batch number of the lot concerned, if applicable;
- (f) germination and viability data for each accession, as applicable;
- (g) when material is requested, the name and address of the person to whom such material was supplied;
- (h) details of the identity and amount of material supplied to the person mentioned in paragraph (g); and
- (i) the date on which material mentioned in paragraph (g) was supplied.

Requirements for the business of running a laboratory

22. (1) The type of business relating to the running of a laboratory stipulated in section 9(1)(e) of the Act, may be registered if the owner and person in direct control, as applicable, -

- (a) have a sound knowledge and understanding of the requirements of the Act, the facilities and practices for operating such a facility;

- (b) have available premises or access to premises to conduct the business in respect of the kinds of plants or crop groups indicated on the application form;
 - (c) employ a suitably qualified person who is in possession of the necessary qualifications, as responsible official of the technical operations at such laboratory; and
 - (d) immediately notify the Registrar in terms of regulation 13 as soon as the services of such person is no longer available.
- (2) Any premises on which the business of a laboratory is conducted, may be registered and the registration thereof renewed if -
- (a) the place where samples of plants and propagating material are stored, tested, examined or analysed on the premises concerned -
 - (i) is an enclosed structure with a solid floor;
 - (ii) has efficient lighting so that any marks, printing or writing on containers of samples or on labels attached to such samples may readily be read, and that observations in connection with the tests, examinations or analyses concerned may readily be made; and
 - (iii) is kept in an orderly, tidy and clean condition at all times;
 - (b) the available facilities and equipment at the premises concerned are adequate and sufficient to ensure that the tests, examinations and analyses referred to in subregulation (3), of samples of the kinds of plants and propagating material referred to in that subregulation can be performed properly; and
 - (c) a quality management system is in place and a quality manual available.
- (3) The testing, examination or analysis of samples of plants and propagating material at a laboratory registered in terms of section 12 of the Act, shall -
- (a) be restricted to samples of those kinds of plants and propagating material, and to those kinds of examinations, tests and analyses which are specified in the certificate of registration mentioned in respect thereof; and
 - (b) be performed in accordance with such validated methods as the registrar may determine.
- (4) The registrar shall require the owner or responsible person of a laboratory to carry out referee or proficiency tests with samples of plants and propagating material with such instructions as the registrar may issue.

(5) The owner or responsible official of a laboratory must furnish a report which complies with the requirements referred to in regulation 23, in connection with the testing, examination or analysis of each sample to the person who submitted that sample.

(6) The owner or person in control of a laboratory must keep at that premises a quantity of each sample which was tested, examined or analysed there, and which is sufficient to repeat that test, examination or analysis when so required -

- (a) in the case of plant material other than seed for a period of at least three months after the test, examination or analysis concerned has been completed, and stored under conditions in which the samples concerned will not be destroyed or affected by any organism; and
- (b) in the case of seed for a period of at least 12 months after the test, examination or analysis concerned has been completed, and stored under conditions in which the seed will retain its potential to germinate.

(7) The responsible person of the technical operations at the premises is in possession of the required qualifications and has sufficient knowledge and understanding of the requirements of the Act, the facilities, equipment and practices for conducting the operations at the premises and has successfully completed an evaluation conducted by an authorised official, person or inspector from the Department to confirm his/her knowledge.

(8) When the person in direct control or responsible person referred to in sub-regulation (1)(c) of the premises or operations is replaced, the registration of the premises will only be renewed if the new person complies with the requirements stipulated in the sub-regulation (7).

Records and reports at test laboratories

23.(1) The owner or person in control of a premises at which the business of a laboratory is conducted, must in respect of each sample of plant and propagating material handled there, compile a report which contains at least the following particulars:

- (a) the date on which the sample concerned was received;
- (b) the kind of plant and variety identity, if applicable, of the sample concerned as indicated by the person who submitted it;
- (c) the name and address of the person who submitted the sample concerned for testing, examination or analysis;

- (d) the reference numbers respectively allocated to the sample concerned by the person referred to in paragraph (c) and the owner or person in control of the premises concerned;
- (e) the respective dates on which the testing, examination or analysis of the sample has commenced and was completed;
- (f) the result of the testing, examination or analysis of the sample concerned, in which the following applicable particulars shall be indicated:
 - (i) in the case of plants or plant material -
 - (aa) the method used to carry out the test, examination or analysis on the sample concerned;
 - (bb) the part of the plant, or type of plant material which was tested, examined or analysed;
 - (cc) the type of organism tested, examined or analysed for;
 - (dd) the pest found in or on the material;
 - (ee) any remarks which the person who has performed the test, examination or analysis concerned, wishes to make in connection with the result concerned; and
 - (ff) the name of the person who carried out the tests; and
 - (ii) in the case of seed -
 - (aa) the physical purity, expressed as a percentage by mass;
 - (bb) the germination or viability expressed as percentage by number or where applicable, expressed as the number of normal seedlings per weight (kg),;
 - (cc) the number of days in which germination was achieved;
 - (dd) moisture content, expressed as a percentage by mass, if determined; and
 - (ee) any remarks which the person who has performed the test, examination or analysis concerned, wishes to make in connection with the result concerned.

(2) Such owner or person in control must keep a copy of each such report.

(3) The results obtained from the test, examination or analysis carried out at the laboratory in terms of section 42(2)(d) of the Act on a sample must be recorded in accordance with the records system of the laboratory.

CHAPTER IV: CONDITIONS FOR SALE OF PLANTS AND PROPAGATING MATERIAL

Requirements for seed that are certified

24.(1) Seed of a variety which has been certified in terms of a scheme referred to in section 45 of the Act, may be sold with an indication that it has been certified if -

- (a) such seed complies with the requirements for seed of the kind of plant to which that of the variety belongs in the scheme concerned; and
- (b) the seller of such seed is in possession of documentary evidence substantiating the fact that such seed has been certified.

(2) If the provisions of sub-regulation (1) cannot be complied with in respect of seed which was certified or presented for certification, such seed may only be sold if -

- (a) it complies with the applicable provisions referred to in regulation 27 or 35, as the case may be; and
- (b) prior to, at or after the sale of such seed no reference whatsoever is made of the fact that it was presented for certification or was certified.

(3) Notwithstanding the provisions of sub-regulation (2), seed of the varieties that are subject to the provisions of regulation 25 that does not comply with the provisions of sub-regulation (1), may only be sold with written authorisation from the Registrar and under the conditions stipulated in the authorisation.

Certification of seed for certain required varieties

25.(1) Any variety that has been approved for national listing which requires compulsory certification in terms of a Scheme established in terms of section 45 of the Act to maintain varietal integrity during multiplication, may be submitted for inclusion in Table 5.

(2) The seed of a variety referred to in sub-regulation (1) may, from the date specified in column 3 of Table 5 opposite the said variety, only be sold if that seed is certified.

(3) The applicant for national listing of a variety referred to in sub-regulation (1) or his agent, may apply for inclusion of the denomination of the variety in question in Table 5 through the designated authority of the scheme in question on the forms available from that authority.

(4) The Registrar must consider the application for inclusion in Table 5 received from the designated authority and submit a recommendation to the Minister for consideration within 30 days from receiving the request.

(5) The Registrar must notify the designated authority in writing within 30 days of receiving the decision from the Minister and publish a notice in the Gazette if the Minister approved the inclusion of the varieties.

(6) The denomination of a variety included in Table 5 may be removed and the requirement for compulsory certification terminated upon request from the applicant or his agent referred to in sub-regulation (3) through the designated authority to the Registrar.

(7) Upon receiving a request for removal of a variety denomination from Table 5, the Registrar must submit a recommendation to the Minister for consideration in accordance with the procedure stipulated in sub-regulations (4) and (5).

Marking and labelling of seed that are certified

26.(1) A container in which seed that has been certified is sold must be marked in accordance with the requirements of the scheme concerned.

(2) Notwithstanding the provisions of sub-regulation (1), the indication of the germination group or viability group, where applicable, referred to in regulation 29(1)(d), shall not be required on the containers of certified maize seed.

(3) In addition to the information referred to in sub-regulation (1), the requirements of regulation 29(2)(a) apply with the necessary changes on certified seed.

Requirements for seed that are not certified

27.(1) Subject to the provisions of regulation 25, seed of a kind of plant specified in column 1 of Table 4, which has not been certified or prepacked, may be sold if -

- (a) the percentages of other material, other seed and weed seed in such seed do not exceed the percentages specified in columns 3, 4 and 5 of the said Table opposite the name of the kind concerned, respectively;
 - (b) the percentage germination or viability; or number of normal seedlings per weight (kg), where applicable, of such seed is equal to or more than that specified in column 6, 7 or 8, where applicable, of the said Table opposite the name of the kind concerned;
 - (c) such seed is true to variety;
 - (d) such seed does not contain specified maximum content of weed seeds specified in column 5 of Table 4;
 - (e) such seed is as homogenous as practically possible (or sufficiently homogenous) and
-

- (f) no live pests occur in the seed.

Maximum mass of seed lots

28.(1) The maximum mass of a seed lot of a kind of plant indicated in column 1 of Table 4 must be in accordance with the mass specified in column 13 of said table or the latest version of the ISTA rules for the kind concerned: Provided that the maximum seed lot size of any kind of plant may not be exceeded by more than 5%.

(2) In the case of coated seed, the maximum seed lot size may not exceed 1 billion seeds or 42 tons, regardless of the kind of plant.

Marking and labelling of seed that are not certified

29.(1) A container in which seed referred to in regulations 27 and 25, which is not certified or prepacked, is sold, must be marked in clearly legible symbols, letters and figures with, or be furnished with a label on which is likewise indicated -

- (a) the scientific and/or common name, as indicated in Table 1, of the kind of plant to which such seed belongs;
- (b) the denomination of the variety as entered on the National Varietal List to which such seed belongs stipulated in terms of section 22(1)(a) and (b) of the Act;
- (c) the lot number of such seed;
- (d) the words "Percentage Germination" or "Percentage Viability", where applicable, followed by the group within which the actual percentage germination or the actual percentage viability, where applicable, of such seed falls, which shall be expressed as -
 - (i) 10 - 19 or 15-19 in the case of *Digitaria eriantha* Steud. only;
 - (ii) 20 - 29;
 - (iii) 30 - 39;
 - (iv) 40 - 49;
 - (v) 50 - 59;
 - (vi) 60 - 69;
 - (vii) 70 - 79;
 - (viii) 80 - 89; and
 - (ix) 90 - 100;

- (e) in the case of *Chloris gayana* Kunth where germination is alternatively determined by the weighed replicate method, germination shall be expressed as the number of normal seedlings per weight (kg); and
 - (f) the name and address of the premises where such seed is sold: Provided that where such seed is resold, the name and address of the premises from which it was obtained, may also, or instead thereof, be indicated.
- (2) In addition to the information referred to in sub-regulation (1) -
- (a) the wording on the container in which seed is sold or on the label attached to such container must comply with the requirements relating to seed, as prescribed in terms of other relevant national legislation;
 - (b) notwithstanding the provisions of sub-regulation (a) of regulation 27, the words "Percentage pure seed" followed by the actual percentage pure seed in such seed, if the percentage pure seed in such seed is 97 or less;
 - (c) the number of pure units of coated seed per mass unit shall also, in the case of coated seed, be indicated on a container in which seed is sold, or on a label attached to such container; and
 - (d) the word "Hybrid" may only be indicated on a container in which seed is sold, or on a label attached to such container, if the seed in that container consists of at least 90 per cent hybrid seed of the variety concerned.
- (3) The word "certified" may not be used in relation to seed that has not been produced and certified in terms of a scheme contemplated in section 45 of the Act.
- Permissible tolerance with regard to the indication of germination or viability groups*
- 30.(1) The germination or viability percentage groups indicated in terms of regulation 29(1)(d) on a container or on a label attached to a container, are accepted as correct if -
- (a) the actual percentage germination or viability used to determine the groups concerned; and
 - (b) the percentage germination or viability of the seed concerned, as determined by a test, examination or analysis in terms of section 42(2)(d) of the Act, when compared with the information indicated on the containers, the tolerance provided for the relevant test, examination or analysis, does not exceed the relevant ISTA tolerance tables.
- (2) The rule of tolerance, referred to in sub-regulation (1), shall only be applied when the actual percentage germination or viability referred to in sub-regulation 1(a), has been obtained from a test report that has been drawn up in accordance with the terms

of regulation 23(1) and such test report has been made available for inspection to the registrar, an employee or an authorised person.

Requirements for containers

31.(1) A container in which seed is sold must be fit for use, clean and suitable for the seed of the kind of plant concerned.

Use of trademarks on labels

32.(1) When a variety is advertised, offered for sale or marketed, it is permissible to associate a trademark, trade name or other similar indication with the approved variety denomination.

(2) A trademark, trade name or other similar indication referred to in sub-regulation (1) may not be used alone without the approved variety denomination; provided the variety denomination is at all times easily recognisable.

Requirements for seed mixtures that are not certified

33.(1) Seed of different kinds of plants or of varieties of such kinds, may be used in a mixture if each of the kinds comply with the requirements specified in Table 4 for such kind of plant prior to mixing.

(2) In addition to the provisions of sub-regulation (1), the seed –

- (a) of each of the varieties present in such mixture must be true to variety;
- (b) of such mixture must be homogenous; and
- (c) must not contain any live pests.

(3) Notwithstanding the provisions of sub-regulation (1), it is prohibited to include seed of hemp in any seed mixture.

Marking and labelling of seed mixtures that are not certified

34.(1) A container in which a seed mixture referred to in regulation 33, which is not prepacked, is sold, must be marked in clearly legible symbols, letters and figures with, or be furnished with a label on which is likewise indicated –

- (a) the word "Mixture" followed by the name of the mixture, if applicable;
- (b) purpose of the mixture;
- (c) the lot number of the mixture;
- (d) the particulars referred to in regulation 29(1)(a) and (b) in respect of each of the kinds and varieties present in such mixture; provided that if the

- mixture contains a kind of plant that is not a kind declared in terms of this Act, the species name of that kind must be indicated;
- (e) the actual percentage contents, calculated on a mass basis, of each of the kinds and varieties present in such mixture;
 - (f) the lot number of each of the components of the mixture;
 - (g) the percentage germination or viability, where applicable, expressed in the manner indicated in regulation 29(1)(d), of each of such kinds and varieties present in such mixture;
 - (h) the name and address of the premises where such seed is sold: Provided that where such seed is resold, the name and address of the premises from which it is obtained, may also, or instead thereof, be indicated; and
 - (i) notwithstanding the provisions of sub-regulation (a) of regulation 27, the words "Percentage pure seed" followed by the actual percentage pure seed of each of the kinds and varieties present in such mixture, if the percentage pure seed in such seed is 97 or less.

(2) Notwithstanding the requirements of sub-regulation (1), the information stipulated in paragraphs (d) to (i) of sub-regulation (1) may be replaced with a digital code, provided the information stipulated in paragraphs (a) to (c) is printed on the label.

(3) In addition to the information referred to in sub-regulation (1), the requirements of regulation 29(2)(a) apply with the necessary changes on seed mixtures.

Requirements for prepacked seed

35.(1) Subject to the provisions of regulation 25, prepacked seed of a kind of plant specified in column 1 of Table 4, may be sold, if -

- (a) the percentage of other material, other seed and weed seed in such seed -
 - (i) in the case of coated and uncoated seed, does not exceed the percentages specified in columns 3, 4 and 5 of the said Table opposite the name of the kind concerned, respectively;
 - (ii) in the case of a mixture, are as indicated in regulation 33(a) or (b), as the case may be;
- (b) the percentage germination or viability; or number of normal seedlings per weight (kg), where applicable, of such seed, or in the case of a mixture, of each of the kinds or varieties present therein, is equal to or more than that specified in column 6, 7 or 8, where applicable, of the said Table opposite the name of the kind concerned;

- (c) such seed, or in the case of a mixture, the seed of each of the varieties present therein, is true to variety;
- (d) a working sample for other seed by number determination in accordance with ISTA rules, does not contain more than one restricted weed seed;
- (e) such seed is homogenous; and
- (f) no live pests occur in the seed.

(2) The maximum mass of seed of a kind of plant specified in column 1 of Table 4 of this Act which may be prepacked per container, must not exceed the mass specified in column 9 of the said Table opposite the name of the kind concerned.

Marking and labelling of prepacked seed

36.(1) A container in which seed referred to in regulation 35, which has been prepacked, is sold, must be marked in clearly legible symbols, letters and figures with, or be furnished with a label on which is likewise indicated -

- (a) the particulars referred to in regulation 29(1)(a), (b) and (c) and (2)(a), (b) and (e);
- (b) the name and address of the premises where such seed was prepacked; and
- (c) the words "Prepacked Seed" if the net mass of the seed in the container concerned exceeds the mass specified in column 11 of Table 4 or if the number of seeds in the container concerned exceeds the number of seeds specified in column 12 of Table 4 opposite the name of the kind of plant concerned.

(2) An indication relating to percentage germination, percentage viability, the actual percentage pure seed or the number of normal seedlings per weight (kg) may appear on a container in which prepacked seed is sold or on a label attached to such container: Provided that the date on which the seed has been tested shall be marked in clearly legible letters on the container or on the label.

(3) If such seed is certified, the words "South African Certified Seed" and the certificate number of the lot concerned must be indicated if the net mass of the seed in the container concerned exceeds the mass specified in column 11 of Table 4 or, if the number of seeds in the container concerned exceeds the number of seeds specified in column 12 of said table for the kind of plant concerned.

(4) In addition to the information referred to in sub-regulation (1), the requirements of regulation 29(2)(a) apply with the necessary changes on prepacked seed.

Sealing of containers of prepacked propagating material

37.(1) A container in which propagating material is prepacked must be sealed at the premises where it was prepacked in such a manner that access to the propagating material concerned can be obtained only by breaking such seal of the container concerned.

(2) When the seal of a container in which propagating material was prepacked or the container concerned is broken for reasons other than sampling in terms of section 42 of the Act, such propagating material shall not be deemed to have been prepacked.

Inspection and sampling of seed

38.(1) Seed at registered premises which has been produced in the country or imported or intended for export, must be presented for inspection and sampling in terms of sections 41(2), 42(1)(e) or 42(6) of the Act in such a manner that –

- (a) access to the seed concerned can be readily obtained; and
- (b) all the marks, printing or writing on the containers of the seed concerned or on labels attached to such containers may readily be read.

(2) In cases where the Registrar, employee or authorised person cannot inspect premises or take samples due to –

- (a) inability to access the area, or
- (b) insufficient light to read the marks, printing or writing on the containers of the seed concerned, or on labels attached to such containers,

the person in charge of the place or premises in question or, in the case of seed that is imported or is being exported, the importer or exporter thereof or his agent, must render all reasonable assistance to enable the required sampling and identification of the seed concerned.

(3) When an inspection of seed is undertaken or samples of such seed is tested, examined or analysed upon request of the owner or person in control of the premises for purposes of export or otherwise, the applicant concerned must pay the applicable fees specified in items 12(b) to (e) of Table 2, as applicable.

Requirements for imported seed

39.(1) Seed of a kind of plant specified in column 1 of Table 1 that is imported into the country must –

- (a) be true to variety;

- (b) comply with the applicable requirements referred to in regulation 35(1)(a) in respect of other material and other seed;
- (c) at the time of the presentation thereof for examination and sampling in terms of section 43(5) of the Act, comply with the minimum requirements for the kind of plant specified in Table 4, supported by a test report confirming the quality of the seed in the consignment, and
- (d) be imported through a port of entry as indicated in Table 6 through which seed may be imported into the country.

(2) In addition to the requirements of sub-regulation (1), if the seed is of a variety of a kind of plant stipulated in column 1 of Table 1 of which the denomination thereof is not yet entered in the national list contemplated in section 24(1) of the Act, an import authorisation must be obtained from the Registrar in terms of section 43(3) of the Act by submitting an application and proof of payment of the fee specified in item 11(a) of Table 2 for this purpose prior to the import of the consignment.

(3) In addition to the provisions of sub-regulation (1) and (2), import of any plant, seed or other propagating material of hemp must at all times be accompanied by an import authorisation obtained from the Registrar prior to the import of the consignment and must comply with the stipulated requirements.

Marking and labelling of imported seed

40.(1) The provisions of regulation 29(1)(a), (b) and (c) and (2)(c) and (d) shall apply with the necessary changes to the particulars which must appear on a container of seed which is imported into the country, or on a label attached to such container, except that the name and address of the premises where such seed is sold, is not required.

Examination and sampling of imported seed

41.(1) Seed which is imported into the Country or is intended for export must be presented in accordance with regulation 38.

Declaration relating to seed imported for immediate export or for purposes other than cultivation

42.(1) A declaration relating to each consignment of seed that is imported into the country for immediate export or for purposes other than the cultivation thereof must,

prior to or on the arrival thereof, be lodged in the form obtainable from the Registrar by the person who intends to import that seed.

(2) The declaration form in respect of a consignment of seed that is imported must accompany the consignment or, if the consignment arrived without the declaration, be presented upon request to the relevant employee of the Department at the port of entry.

(3) A consignment of seed may be removed from the port of entry only after the declaration referred to in sub-regulation (1) in respect thereof has been received at the office of the Department referred to in sub-regulation (2).

Application for certificate for export of seed

43.(1) In cases where the seed intended for export does not comply with the requirements of the Act, an application for an export certificate must be submitted in terms of section 44(3) of the Act on the form obtainable from the Registrar for that purpose.

(2) An application referred to in sub-regulation (1) must be submitted in respect of each separate consignment of seed, and each such application must -

- (a) be accompanied by the application fee specified in item 12(a) of Table 1; and
- (b) reach the registrar at least 30 days prior to the date of intended export.

(3) Notwithstanding the provisions of sub-regulation (1), an application for an export certificate for the export of hemp seed must be submitted for all consignments of hemp seed.

(4) In addition to the provisions of sub-regulations (2) and (3), the following must accompany the application for an export certificate for hemp seed -

- (a) a copy of the hemp permit of the exporter,
- (b) a copy of the analysis report issued by a competent laboratory confirming the THC content of the material, and
- (c) proof of certification or confirmation of the source of the seed.

Examination and sampling of seed intended for export

44.(1) Seed which is intended for export must be presented for examination and sampling in accordance with the provisions of regulation 38.

Requirements for plants and vegetative propagating material that are certified

45.(1) Plants and vegetative propagating material which have been certified, may be sold with an indication that they have been thus certified, if -

- (a) such plants or propagating material comply with the requirements determined therefor in the relevant scheme established in terms of section 45 of the Act and are labelled as required by such scheme; and
- (b) the seller of such plants or propagating material is in possession of documentary evidence substantiating the fact that such plants or propagating material have been thus certified.

(2) If the provisions of sub-regulation (1) cannot be complied with in respect of a lot of plants or propagating material which was certified in terms of a scheme, no reference whatsoever shall prior to, at or after the sale of such plants or propagating material be made to the fact that the aforesaid plants or propagating material were presented for certification or were thus certified.

(3) In addition to the provisions of sub-regulation (1), plants, cuttings seedlings of hemp varieties and budwood or seed of citrus and related genera may be considered certified if proof of the source of the material and certification thereof is available.

Requirements for plants that are not certified

46.(1) Subject to the provisions of sub-regulations (2), (3), (4), and (5), a plant of such a kind of plant and a plant of any other kind of plant that has not been certified, may be sold, if -

- (a) such plant and, if it has been grafted or budded, the rootstock thereof, as applicable, is -
 - (i) true to type and true to variety;
 - (ii) free from the regulated pests specified in the Agricultural Pests Act, 1983 (Act No. 36 of 1983) or any national Plant Health legislation and regulations; and
 - (iii) visually free from any other pest; and
- (b) where applicable -
 - (i) such plant shows vigorous growth in all respects;
 - (ii) the graft or bud union of such plant has grown together right around;
 - (iii) no signs of nutritional deficiency, drying out or physiological, chemical, pest, hail, cold or serious mechanical damage are visible on such plant; and

- (iv) the root system of such plant is well-developed and free from any sign of root rot.

(2) A plant of *Citrus* spp., *Fortunella* spp., *Poncirus* spp., *Microcitrus* spp. and any cross of such plants that has not been certified may be sold, if -

- (a) all seed, budwood and grafting material required for the propagation of plants of the Citrus group, have been certified in terms of the scheme established in terms of section 45 of the Act and obtained from premises registered and certified in terms of that scheme;
- (b) in the case of seed for a rootstock, such seed contains not more than 5 per cent under-developed seed and not more than 5 per cent damaged seed: Provided that the aggregate of the under-developed and damaged seed content shall not exceed 5 percent;
- (c) in the case of budwood for a scion the thorns, leaves and side shoots of such budwood have been removed immediately after the collection thereof;
- (d) in the case of a nursery plant grafted or budded -
 - (i) the graft or bud union of such plant is at least 200 mm above the ground for commercial plantings and at least 50 mm for retail or potted trees;
 - (ii) the scion of a nursery plant is at least 150 mm above the graft or bud union; and
 - (iii) the difference between the diameter of the scion and the rootstock of such plant 50 mm above and 50 mm below the graft or bud union, does not exceed 5,0 mm; and
- (e) in the case of a nursery plant that is not grafted or budded, such plant is at least 350 mm above the ground.
- (f) in the case of any nursery plant -
 - (i) the stem of such plant is straight;
 - (ii) such a plant is not subject to bark flaking or any other abnormality; and if such plant has been cut back, it is not shorter than 500 mm:

(3) A plant of *Malus* spp., *Prunus armeniaca* L., *Prunus avium* L., *Prunus cerasus* L., *Prunus domestica* L., *Prunus persica* Batsch, *Prunus salinica* Lindl or *Pyrus communis* L. that has not been certified may be sold, if -

- (a) in the case of seed for seedlings -
 - (i) the percentage germination of that seed is at least 75; and

- (ii) that seed contains not more than 5 per cent under-developed seed and not more than 5 per cent damaged seed: Provided that the aggregate of the under-developed and damaged seed content must not exceed 5 per cent;
- (b) in the case of graftwood or budwood -
 - (i) that wood is well-matured; and
 - (ii) the side shoots and spurs on that wood were removed immediately after collection;
- (c) in the case of an unrooted hardwood cutting, that cutting originates from the growth of the previous growing season;
- (d) in the case of a rooted rootstock cutting -
 - (i) that cutting is not older than two years;
 - (ii) the length of that cutting above the uppermost root is at least 300 mm;
 - (iii) the diameter of that cutting above the uppermost root is 8 mm;
 - (iv) that cutting is straight; and
 - (v) that cutting has at least two roots with a minimum length of 50 mm each;
- (e) in the case of an apple seedling or apple layer -
 - (i) that seedling or layer is not older than one year;
 - (ii) the stem of that seedling or layer is straight;
 - (iii) the root system of that seedling or layer is well-developed; and
 - (iv) the stem diameter 200 mm above the uppermost root of that seedling or layer is not more than 15 mm; and
- (f) in the case of a nursery plant -
 - (i) of a stone fruit, any graft or bud union is between 120 mm and 200 mm above the uppermost root;
 - (ii) of a pome fruit, any graft or bud union is between 150 mm and 250 mm above the uppermost root;
 - (iii) the stem diameter 50 mm above the graft or bud union of a one-year-old and two-year-old plant is at least 7 mm and 8 mm respectively;
 - (iv) the side shoots of that plant after leaf drop have not been cut back to shorter than 100 mm;
 - (v) no side shoots appear below the graft or bud union of that plant;

- (vi) that plant has not been cut back to shorter than 1,5 m above the graft or bud union: Provided that where such a plant has been established in a container, that plant has not been cut back to shorter than 500 mm above the graft or bud union;
 - (vii) the pruning wound above the graft or bud union of that plant is sealed with a wound sealer;
 - (viii) the roots of that plant are not pot-bound and, if cut back, are not shorter than 150 mm;
 - (ix) that plant has no dead or torn roots;
 - (x) the stem of that plant is straight; and
 - (xi) where such a plant has been established in a container, that plant has not been established in such container for longer than one year.
- (4) A plant of *Vitis* spp. that has not been certified may be sold, if -
- (a) in the case of a scion graft shoot -
 - (i) that shoot does not originate from a plant younger than two years;
 - (ii) the buds of that shoot are dormant for graft purposes and show no signs of budding or swelling;
 - (iii) that shoot is well-matured over the entire length thereof; and
 - (iv) the diameter between the nodes over the entire length of that shoot is between 6 mm and 12 mm;
 - (b) in the case of a scion plant shoot -
 - (i) that shoot does not originate from a plant younger than two years;
 - (ii) the buds of that shoot are dormant and show no signs of budding or swelling;
 - (iii) that shoot is at least 300 mm in length;
 - (iv) that shoot is well-matured over the entire length thereof;
 - (v) that shoot has no anchors or side shoots;
 - (vi) that shoot is straight enough to fit in its length between two parallel straight lines 30 mm apart; and
 - (vii) the diameter of that shoot between the two upper buds is not less than 4 mm;
 - (c) each rootstock graft shoot, rootstock plant shoot, rootstock of a grafted plant and rooted rootstock plant originates from a parent plantation that is cultivated only for the production of rootstocks;
 - (d) in the case of a rootstock graft shoot -
-

- (i) that shoot does not originate from a plant younger than two years;
 - (ii) that shoot is well-matured over the entire length thereof;
 - (iii) a node appears on the base of that shoot;
 - (iv) the length of that shoot is between 260 mm and 280 mm;
 - (v) the diameter between nodes over the entire length of that shoot is between 6 mm and 12 mm;
 - (vi) that shoot has no anchors or side shoots; and
 - (vii) that shoot is straight enough to fit in its length between two parallel straight lines 30 mm apart;
- (e) in the case of a rootstock plant shoot -
- (i) that shoot does not originate from a plant younger than two years;
 - (ii) that shoot is well-matured over the entire length thereof;
 - (iii) that shoot is at least 300 mm in length;
 - (iv) the diameter of that shoot between the two upper buds is not less than 4 mm;
 - (v) that shoot has no anchors or side shoots; and
 - (vi) that shoot is straight enough to fit in its length between two parallel straight lines 30 mm apart;
- (f) in the case of a rooted rootstock plant -
- (i) that plant has at least one mature shoot with a minimum length of 150 mm, or at least two mature shoots with minimum length of 100 mm each;
 - (ii) the two-year-old part of that plant is at least 250 mm long;
 - (iii) at least two well developed roots appear on the base of that plant;
 - (iv) no dead parts appear on that plant; and
 - (v) the roots of that plant have not been cut back shorter than 100 mm;
- (g) in the case of a rooted rootstock plant in a container, excluding a plant that is cultivated from a one-bud cutting, that plant has -
- (i) a stem at least two years old and 200 mm in length and with an internode diameter of at least 5 mm;
 - (ii) at least one well hardened off one-year-old shoot with a minimum length of 150 mm, that, when dormant, is well-matured over at least two thirds thereof; and
 - (iii) at least two well developed roots on the base thereof;

- (h) in the case of a rooted rootstock plant that is cultivated from a one-bud cutting and is established in a container -
 - (i) that plant has at least one shoot with a minimum length of 100 mm that, when dormant, is well-matured over at least two thirds of the length thereof; and
 - (ii) at least two well developed roots appear on the base of that plant;
- (i) in the case of a rooted grafted plant that is not established in a container -
 - (i) the diameter of the scion of that plant is not more than 3 mm thicker and not more than 3 mm thinner than the rootstock;
 - (ii) at least two well developed roots appear on the base of that plant;
 - (iii) no signs are visible of the removal of roots thicker than 2 mm in diameter from the scion of that plant;
 - (iv) no live buds appear on the rootstock of that plant;
 - (v) that plant has at least one mature shoot with a minimum length of 100 mm when it is of the variety Barlinka or Hanepoot and 150 mm when it is of another variety;
 - (vi) the rootstock of that plant is at least 200 mm in length; and
 - (vii) no dead parts appear on that plant; and
- (j) in the case of a grafted plant in a container -
 - (i) the side graft union of that plant is firmly callused through at least the bottom three quarters of that union;
 - (ii) the top graft union of that plant is firmly callused right around;
 - (iii) the diameter of the scion of that plant is not more than 2 mm thicker or more than 3 mm thinner than the rootstock;
 - (iv) the length of any rootstock stem originating from dormant wood is at least 150 mm and the internode diameter thereof is at least 5 mm;
 - (v) with the exception of a cartonaged plant, that plant has at least one shoot with a minimum length of 150 mm that, when dormant, is well-matured over at least two-thirds of the length thereof;
 - (vi) when cartonaged, that plant has at least one shoot with a minimum length of 100 mm;
 - (vii) at least three well-developed roots appear on the base of that plant; and
 - (viii) no signs are visible of the removal of roots thicker than 2 mm in diameter from the scion of that plant; and

- (k) in the case of a rooted green-grafted plant in a container –
 - (i) the graft union of a green-grafted plant in a container must be firmly callused right around;
 - (ii) the internodal diameter of the scions of such a plant must be at least 1,5 mm;
 - (iii) each one-year-old plant, when dormant, must have at least one mature shoot with a minimum length of 80 mm;
 - (iv) each one-year-old plant, when not dormant, which has stood over for one season after grafting, must have at least one green shoot with a minimum length of 80 mm;
 - (v) the rootstock of such a plant must have a length of at least 100mm, with an internodal diameter of at least 1,5 mm and be well-matured over the entire length thereof; and
 - (vi) each plant must have at least three well-developed roots that are evenly spread around the base thereof.

Marking and labelling of plants

47.(1) Subject to the provisions of sub-regulation (4), a plant that is sold must be furnished with a label on which is indicated in clearly legible symbols, letters and figures -

- (a) the recognised name of the kind to which such plant belongs;
- (b) the denomination which is generally used for the variety concerned, unless the registrar determines otherwise in respect of a particular kind of plant;
- (c) in the case of a plant referred to in regulations 31(2), (3) and (4) that has been grafted into a rootstock, also the particulars referred to in paragraphs (a) and (b) in respect of such rootstock;
- (d) the name and address of the premises where such plant is sold or was grown: Provided that where such plant is resold, the name and address of the premises from which it was obtained, may also, or instead thereof, be indicated;
- (e) the number of the lot/batch of propagation material or plants to which such plant belongs.

(2) If a plant referred to in sub-regulation (1) is certified, the label in respect of such plant must also contain -

- (a) the certification number of the certificate issued in respect of the lot/batch concerned; and
 - (b) the further information which must appear on such label in terms of the scheme concerned.
- (3) The appropriate information referred to in sub-regulations (1) and (2) -
- (a) may be indicated as an alternative on a container in which a plant grows when sold, or on a label attached to such container; and
 - (b) may, in the case where plants are packed in bundles, be indicated on a label attached to each separate bundle.
- (4) The provisions of sub-regulation (1) shall not apply to the sale of plants that are cultivated in containers and supplied on a large scale direct to a producer for commercial planting: Provided that -
- (a) such producer must take delivery of the plants at the nursery, or the nursery concerned must deliver the plants direct to the producer at his premises; and
 - (b) the information referred to in sub-regulation (1) is furnished in an accompanying invoice.
- (5) When a variety is advertised, offered for sale or marketed, it is permitted to associate a trademark, trade name or other similar indication with an approved variety denomination.
- (6) The trademark, trade name or other similar indication referred to in sub-regulation (5) may not be used alone without the approved variety denomination; the variety denomination must at all times be easily recognisable.

Inspection and sampling of plants and vegetative propagating material

48.(1) Plants and propagating material grown at registered premises must be presented for inspection and sampling in terms of sections 41(2), 42(1)(e) or 42(6) of the Act in such a manner that -

- (a) access to the plants and propagating material concerned can be readily obtained; and
 - (b) all the marks, printing or writing on the plants or containers or on labels attached to such containers can be readily read.
- (2) Plants and propagating material are intended for export, must comply with the requirements of this Act.

(3) In cases where the Registrar, employee or authorised person cannot inspect premises or take samples due to –

- (a) inability to access the area, or
- (b) insufficient light to read the marks, printing or writing on the containers of the seed concerned, or on labels attached to such containers,

the person in charge of the place or premises in question, the exporter thereof or his agent, must render all reasonable assistance required to enable him to obtain the required sample and to identify the plants or material concerned.

(4) When an inspection of plants or propagating material is undertaken and/or samples of such material is tested, examined or analysed upon request of the owner or person in control of the premises for purposes of export or otherwise, the applicant concerned is liable for the cost of such sampling and tests.

Declaration relating to plants or propagating material imported for immediate export or for purposes other than cultivation

49.(1) The provisions of regulation 42 shall apply with the necessary changes for the import of plants and propagating material for immediate export or import for purposes other than cultivation thereof.

Application for export certificate for plants or vegetative propagating material

50.(1) In cases where plants or vegetative propagating material intended for export does not comply with the requirements of the Act, an application for an export certificate must be submitted in terms of section 44(3) of the Act on the form obtainable from the Registrar for this purpose.

(2) An application referred to in sub-regulation (1) must be submitted in respect of each separate consignment and each such application must –

- (a) be accompanied by the application fee specified in item 1(a) of Table 1; and
- (b) reach the registrar at least 30 days prior to the date of intended export to allow for the period to conduct the required laboratory tests.

Examination and sampling of plants or vegetative propagating material intended for export

51.(1) Plants or vegetative propagating material intended for export must be presented for examination and sampling in accordance with the provisions of regulation 48.

(2) When an inspection of plants or propagating material is undertaken and/or samples of such material is tested, examined or analysed upon request of the owner or person in control of the premises for purposes of export or otherwise, the applicant concerned is liable for the cost of such sampling and tests.

CHAPTER V: REGISTRATION OF VARIETIES

Register of varieties

52.(1) The register of varieties as kept by the Registrar referred to in section 6 of the Act must contain the following information –

- (a) the denomination of each variety and any approved amendment thereof, including the date of such amendment;
- (b) breeder's reference, where available;
- (c) the approved synonym for each variety, where applicable;
- (d) the name of the applicant for each variety;
- (e) the country code for the country of origin of the variety;
- (f) the name of the person who has been appointed as the local agent;
- (g) the kind of plant for each variety indicating the scientific and common name;
- (h) the UPOV code for the kind of plant for each variety;
- (i) the application number and filing date for each variety;
- (j) National Varietal List Journal number and publication date on which the application was published for each variety;
- (k) the date on which an application for national listing is withdrawn or rejected;
- (l) the approval number and date of approval for each variety, if approved;
- (m) National Varietal List Journal number and publication date on which the decision for approval was published for each variety;
- (n) National Varietal List Journal number and publication date on which an application has been withdrawn, lapsed or rejected, or a variety denomination has been removed from the national list; and
- (o) such other particulars as the registrar may deem necessary, subject to the provisions of the Act.

(2) Any person requiring a copy of a document referred to in section 6(3) relating to particulars in the register of varieties, must -

- (a) apply in writing to the Registrar; and
- (b) pay the fee specified in item 4 of Table 2 and provide proof thereof to the Registrar.

National Varietal List journal

53. (1) The Registrar must publish the particulars specified in Table 7 in respect of the following in the National Varietal List journal referred to in section 40 of the Act-

- (a) applications for national listing;
- (b) withdrawal, lapsing or rejection of an application for national listing;
- (c) decisions relating to the approval or refusal for national listing;
- (d) amendment of the applicant and/or agent,
- (e) change of ownership of a variety;
- (f) intention to amend an approved variety denomination;
- (g) amendment of an approved variety denomination;
- (h) addition of a synonym to an approved variety denomination;
- (i) removal of a variety denomination from the national list; and
- (j) any other matter as deemed necessary.

(2) The Registrar must publish the National Varietal List Journal on a quarterly basis-

- (a) on the website of the Department; and
- (b) by electronic circulation to relevant stakeholders.

(3) The publication date of the National Varietal List Journal is the date on which the journal is broadcast electronically.

National Varietal List

54. (1) The National Varietal List referred to in section 24 of the Act must at least contain the following information:

- (a) the kind of plant (scientific and common name) for each variety;
- (b) the variety denomination or approved amendment thereof for each variety;
- (c) the approved synonym for each variety, where applicable;
- (d) the owner of the variety or the agent;
- (e) date of compulsory certification commencement.

(2) In the case of kinds of plants where specific varieties are not required to be listed, referred to as "open list" in column 3 of Table 1, the expression "All varieties" is indicated for the respective kind of plant in the varietal list.

(3) Notwithstanding the provisions of sub-regulation (2), specific varieties may be listed for the purposes of a certification scheme contemplated in section 45 for the kinds of plants with an open list but must be clearly indicated as "Varieties eligible for certification" below the expression "All varieties".

Inspection and copies of documents

55.(1) Any person needing to inspect a document in terms of section 8(1) must

- (a) make an appointment with the Registrar;
- (b) pay the fee specified in item 5 of Table 2 and provide proof thereof to the Registrar.

(2) Any person requiring a copy of a document referred to in section 8(2) must

- (a) apply in writing to the Registrar; and
- (b) pay the fee specified in item 6 of Table 2 and provide proof thereof to the Registrar.

(3) No person may inspect or be furnished a copy of the confidential information stipulated in section 8(3) of the Act and any correspondence to the applicant regarding approval and refusal for national listing.

Application for removal of variety denomination

56. (1) An application for the removal of a variety denomination in terms of section 26(1)(g) by a third party, must be submitted on the form obtainable from the Registrar and must be accompanied by the fee specified in item 10(h) of Table 2.

Submission of application and payment of application fees

57. (1) An applicant or agent must submit to the Registrar an original signed application with accompanying documents specified in section 28(1) of the Act by hand, courier or mail to the office of the Registrar.

(2) Proof of payment of the application fee payable in terms of section 28(1)(e) of the Act is specified in item 10(a) of Table 2.

(3) Application fees paid for applications that are subsequently withdrawn or rejected are non-refundable.

- (4) In the case of hemp, the application must also be accompanied by –
- (a) a copy of the hemp permit contemplated in regulation 4.;
 - (b) confirmation of variety registration by the registration or designated authority of another country, if the variety is imported;
 - (c) an analytical report confirming the THC content in the plants (flowering heads and leaves) of the variety from which the propagating material was obtained; and
 - (d) if the THC content exceeds 0.2%, a copy of the relevant permit in terms of the Medicines Act.”

Appointment of an agent

58.(1) An applicant for national listing in terms of section 28 of the Act must, if appointing an agent, submit to the Registrar a duly completed form obtainable from the office of the Registrar or letter stipulating appointment of such agent.

(2) An applicant who is not domiciled and resident in the country may only submit an application through an agent and must inform the Registrar of the appointment of such agent by submitting a duly completed form obtainable from the Registrar or letter stipulating appointment of such agent.

(3) The original signed form or letter referred to in sub-regulation (1) and (2) must be submitted together with an application for national listing.

(4) In the event where an applicant substitutes an appointed agent, the applicant must notify the Registrar of such a substitution by submitting duly completed form obtainable from the office of the Registrar or letter stipulating substitution of such agent.

(5) Notwithstanding the provisions of sub-regulation (1) and (2), if the breeder cannot be traced, a declaration referred to in section 28(3) of the Act must be submitted on the form obtainable from the Registrar.

Withdrawal of an application for national listing

59.(1) The applicant for national listing must submit a notice for the withdrawal of an application to the Registrar on the form obtainable from the office of the Registrar.

(2) A duly completed and signed form must be sent electronically, mailed, couriered or hand delivered to the office of the Registrar.

Submission of plant material and payment of examination fees for tests and trials

60. (1) An applicant or agent must provide material for tests and trials in accordance with section 35 of the Act to the Registrar in the following manner –

- (a) in the case potatoes, trees and vines, the required amount of plant material must be made available for tests and trials within 5 years from the filing date and the applicant or agent must deliver the material to the office of the Registrar or inform the Registrar of the location of the material, as applicable;
- (b) in the case of all other crops, the required amount of propagating material must be delivered to the office of the Registrar within 24 months from the filing date;
- (c) the specific amount of material to be submitted is obtainable from the office of the Registrar; and
- (d) if the plant material has been submitted for the same variety in terms of the Plant Breeders' Rights Act, 2018 (Act 12 of 2018), another sample is not required in terms of this Act.

(2) Upon delivery of the material or receipt of notification of the availability thereof, the Registrar must issue an invoice to the applicant or agent, as applicable.

(3) The examination fee payable in terms of section 28(1)(e) of the Act is payable in the year that the material is made available for tests and trials and the fee payable is specified in item 10(c) of Table 2.

(4) Upon payment of the examination fee, the applicant or agent must submit proof of payment to the office of the Registrar.

(5) In the case where an application for the same variety has been submitted simultaneously for granting of a plant breeder's right in terms of the Plant Breeders' Rights Act, 2018 (Act 12 of 2018) and the examination fee has been paid in respect of that application, no examination fee is payable.

(6) In the case where an application for national listing is filed after the grant of a plant breeder's right in terms of the Plant Breeders' Rights Act, 2018 (Act 12 of 2018) for the same variety by the same applicant, the Registrar may take over results of the DUS test and trials conducted for plant breeders' rights.

(7) If the Registrar takes over results of DUS test and trials for plant breeders' rights in terms of sub-regulation (6), no examination fees are payable by the applicant.

(8) In cases where results for tests and trials are taken over from the relevant authority of another country in accordance with section 55 of the Act, the applicant must -

- (a) pay the required fee to the authority of the providing country and furnish the Registrar with the proof of payment, and
- (b) furnish the Registrar with propagating material where applicable and upon request.

(9) The examination fee paid for the tests and trials for a variety subsequently refused for approval for national listing is non-refundable.

Application for an extension to submit material for tests and trials

61.(1) An applicant or agent who did not furnish the Registrar with material for tests and trials within the prescribed period in accordance to section 35 of the Act, must -

- (a) apply to the Registrar for an extension not exceeding the initial period stipulated in regulation 60(1) on the form obtainable from the Registrar; and
- (b) in the event of imported material, the application must be accompanied with a sworn affidavit as proof that the plant material has been imported into the Country.

Amendment of an application for national listing

62.(1) An applicant or agent may apply for amendment of an application for national listing in accordance with section 31 of the Act on the relevant form available from the Registrar for:

- (a) change of applicant or owner;
- (b) change of local agent;
- (c) addition or removal of a synonym;
- (d) any other change as agreed upon by the Registrar.

(2) Amendments affecting the description of the variety are not acceptable.

(3) An applicant or agent must submit proof of payment of the fee specified in item 10(b) of Table 2 for amendment of the application.

Objection to an application for national listing

63.(1) Any person may, within 60 days of the publication of particulars in respect of an application made in accordance to section 28 of the Act in a National Varietal List

Journal, lodge an objection with the Registrar in accordance to section 32 (1) of the Act.

(2) Notwithstanding sub-regulation (1), such an objection must be lodged before approval of the variety concerned, as approval for listing constitutes a decision of the Registrar for which an appeal may be lodged in accordance with section 47 of the Act.

(3) The documentation for the objection may be sent electronically or hand delivered, couriered or mailed to the Registrar, and such an objection must:

- (a) state the name and address of the person objecting;
- (b) state the kind of plant and the denomination of the variety in question;
- (c) state the publication date of the Varietal List Journal in which the particulars of the application of the variety concerned were published;
- (d) state the grounds for the objection, substantiated by such proof as may be deemed necessary; and
- (e) be accompanied by proof of payment of the fee specified in item 10(f) of Table 2.

4) If the applicant decides to lodge a counterstatement in accordance to section 32 (3) of the Act, such a counterstatement must:

- a) be sent electronically or hand delivered, couriered or mailed to the Registrar within 60 days of receiving the notification of the objection from the Registrar;
- b) provide detailed responses within 30 working days to the grounds for the relevant objection, substantiated by such proof as may be deemed necessary.

Variety denomination

64. (1) The applicant must propose a variety denomination to the Registrar in accordance with section 33 of the Act and such denomination must-

- (a) be suitable to identify the variety;
- (b) be the same as submitted in any other country for the same variety;
- (c) be different from known denominations of any existing varieties of the same or a closely related kind of plant in South Africa or any other country;
- (d) be aligned with the relevant accepted international practices
- (e) not be used more than once in the same variety denomination class.
- (f) not be such as to be liable to mislead or to lead to confusion concerning the characteristics, value, geographical origin, identity of the variety in

- question or the identity of the breeder thereof;
- (g) subject to the provisions of sub-regulation (2) not be identical with or similar to, or liable to lead to confusion with a mark which enjoys the protection accorded thereto by the Trademarks Act, 1963 (Act No. 62 of 1963); and
 - (h) be in accordance with a list of the denomination classes available from the Registrar.
- (2) Notwithstanding anything to the contrary contained in these regulations –
- (a) a mark referred to in sub-regulation (1)(g) may only be approved as a denomination for a variety if the applicant concerned submits documentary proof that the holder of the mark concerned renounces his or her right to such mark as from the date of filing an application for national listing for the variety concerned; and
 - (b) the denomination approved by the registrar for a variety in respect of which protection or national listing has been granted by, or an application for protection or listing has been lodged with the appropriate authority in another country in accordance with the laws in force in that country must be the same as the denomination thus protected or thus applied for in such country, on condition however that the provision of subparagraph (a) are complied with and that a priority claim on such denomination is not proved by another person.
- (3) If the Registrar finds that the proposed denomination does not satisfy the requirements of sub-regulation (1), the Registrar must within 14 days of receipt of the application request the applicant in writing to propose an alternative denomination.
- (4) The applicant must within 30 days from the date of request propose an alternative denomination using the form obtainable from the Registrar.
- (5) The duly completed and signed Schedule must be mailed, hand delivered or couriered to the office of the Registrar.

Amendment of a variety denomination

65.(1) A request for the amendment of the approved denomination for a variety in terms of section 34(3) must –

- (a) be in accordance with regulation 64;
- (b) be submitted to the Registrar by the applicant using the relevant form obtainable from the Registrar; and

- (c) the duly completed signed original Schedule accompanied by the proof of payment of the fee specified in item 10(d) of Table 2 must be mailed, hand delivered or couriered to the office of the Registrar.
- (2) If the Registrar intends to approve the amendment of the denomination, the particulars specified in item 10 of Table 7 in respect thereof must be published in accordance with regulation 53.
- (3) The documentation for the objection against the intended amendment of an approved variety denomination in terms of section 34(5) of the Act must –
- (a) be lodged with the Registrar in writing within 30 days from the date on which the particulars thereof were published in terms of section 40 of the Act;
 - (b) state the name and address of the person objecting;
 - (c) indicate the published particulars of the application concerned;
 - (d) state the grounds on which it is based; and
 - (e) be accompanied by proof of payment of the fee specified in item 10(g) of Table 2.
- (4) The Registrar must within 14 days of the receipt of an objection,
- (a) inform the applicant concerned in writing of the objection; and
 - (b) provide the applicant with a copy of the objection.
- (5) The applicant may lodge with the Registrar a counterstatement against the objection within 30 days of notification.
- (6) In considering the objection, the Registrar may request that further information be furnished as may be deemed necessary.
- (7) After considering all the evidence, the Registrar must make a decision and thereafter in writing inform the person objecting and the applicant concerned of his or her decision and of the grounds on which it is based.
- (8) If the objection against the intended amendment of denomination referred to in sub-regulation (2) is upheld, the applicant must propose another denomination and if approved, the Registrar must publish such denomination.
- (9) If no objection was lodged or if the objection referred to in sub-regulation (3) was not successful, the denomination published in terms of sub-regulation (2) will be considered the approved denomination.

Addition of a synonym for an approved variety denomination

66.(1) The agent or introducer of a variety may request the addition of a synonym for an approved variety denomination in the national list on a form obtainable from the Registrar.

(2) The duly completed signed original Schedule accompanied by the proof of payment of the fee specified in item 3 of Table 2 must be mailed, hand delivered or couriered to the office of the Registrar and must be accompanied by written approval from the breeder, if known, for the synonym concerned.

(3) The synonym requested in sub-regulation (1) must comply with the requirements stipulated in regulation 64.

Evaluation of a variety for value, cultivation and use

67.(1) The Registrar must notify the applicant of a variety in writing of his or her intention to evaluate the variety in question in terms of section 38 of the Act and specify-

- (a) the reason for the intended evaluation;
- (b) the quantity of plants or propagating material required for such evaluation; and
- (c) the date and place for delivery.

(2) The variety will be evaluated in accordance with internationally accepted standards for the kind of plant in relation to the respective traits that are to be evaluated.

Hearing of an objection

68.(1) The procedure at the hearing of an objection in terms of section 39 of the Act must be as follows:

- (a) parties must submit their evidence to the Registrar and exchange the same between themselves within seven days of the date of receipt of notification of the hearing from the Registrar.
- (b) at the hearing, the Registrar or his or her representative will chair the proceedings and provide secretarial services to record the proceedings.
- (c) all parties or their representatives will be allowed to call witnesses during the hearing and to cross-examine other witnesses;
- (d) the onus rests with each party to notify his or her witnesses of the date, place and time of the hearing and to ensure their presence at the hearing;

- (e) the person who lodged the objection or their representative will be allowed to present his or her case first and to call witnesses; and
 - (f) The applicant for varietal listing against which an objection is lodged, or their representative, will then be allowed to present his or her case and to call witnesses.
- (2) The Registrar may, when considering the matter at the hearing utilize one or more of the persons contemplated in section 48 of the Act to assist and advise with regard to the hearing of the objection.
- (3) After hearing all the evidence, the Registrar must within 21 days consider the evidence and reach a decision, and in writing advise all parties concerned, of his or her decision and of the grounds on which it is based.
- (4) The Registrar must make available copies of the proceedings to the parties concerned within 14 days of the finalisation of the matter.
- (5) The Registrar must publish any amendment resulting from a decision on an objection.

CHAPTER VI: SCHEMES

Application for establishment of a scheme

69. (1) An application referred to in section 45(5) of the Act, must be submitted in writing to the Registrar containing at least the following information:
- (a) name of the proposed scheme and the kinds of plants that will be subject to the scheme
 - (b) name and address of the organisation or association seeking to be the designated authority
 - (c) the constitution of the organisation or association
 - (d) whether the scheme must be voluntary or compulsory
 - (e) the main objective of the scheme, whether it is phytosanitary and/or varietal integrity
 - (f) name and address of the organisation that will be responsible for operation of the scheme, if applicable, to which the functions and duties of the authority will be delegated
 - (g) confirmation that the scheme will be operated at own cost, or if not at own cost, the source of finances for such operations;

- (h) proposed scheme containing at least the elements set out in regulation 70.
- (2) The Registrar must consider the application received and submit a recommendation for consideration by the Minister after consultations with the applicant and relevant industry.
- (3) The Registrar must notify the applicant in writing within 30 days of receiving the decision from the Minister and if approved, publish a notice in the Gazette.
- (4) A written agreement in the form of a Memorandum of Agreement must be entered into between the designated authority and the Department upon appointment of the organisation as designated authority. The agreement must contain at least the following:
- (a) role and duties of the designated authority including key responsibilities
 - (b) role and duties of the Department
 - (c) monitoring and evaluation of the scheme
- (5) A person who feels aggrieved by the decisions or actions of the designated authority, must follow the appeal procedure in terms of section 47 of the Act.

Provisions of the scheme

- 70.(1) The Minister must in a notice relating to the establishment of a scheme, -
- (a) indicate the kinds of plants and varieties thereof to which the provisions of the scheme will apply;
 - (b) provide that an area of land utilized for the cultivation of plants or propagating material in terms of a scheme, must be registered as a unit with the designated authority referred to in section 45(6)(a) of the Act;
 - (c) provide for the manner in which an application for registration as a unit must be submitted, the information which must accompany such an application and the circumstances under which such registration shall lapse, be refused or be cancelled;
 - (d) determine the requirements and conditions to which a unit must comply to be eligible for registration, and the period of validity of such registration;
 - (e) determine that, as from the date on which a unit is registered in terms of a scheme, the provisions of such scheme shall be binding on the person in whose favour that unit is registered;
 - (f) provide for the manner in which the control of the plants and propagating material intended for certification under a scheme must be produced and

- treated;
- (g) determine the manner in which and the times at which any inspection of units or of plants or propagating material with reference to which the provisions of a scheme are applicable, shall be carried out, and authorize the designated authority to determine the forms to be used in connection with such an inspection;
 - (h) determine the requirements and standards of quality that plants and propagating material must comply with for certification in terms of a scheme;
 - (i) determine the way in which plants and propagating material must be certified, the form of a certificate in connection therewith and the circumstances under which such a certificate shall lapse;
 - (j) determine the way in which certified plants and propagating material must be packed, marked, labelled, sealed, stored or distributed, and the specifications of the labels and seals to be used therefore;
 - (k) determine the information which must appear on the containers in which certified plants and propagating material are packed, or on labels affixed thereto;
 - (l) determine the records to be kept and the information to be furnished by any person in whose favour a unit is registered under a scheme;
 - (m) determine the fees or charges payable in terms of a scheme, or where the designated authority has been appointed to operate at own cost, authorize such authority to determine the fees or charges, and stipulate that the rendering of any service may be refused to a person who is indebted to any such authority in any amount in respect of such fees or charges;
 - (n) confer on the designated authority or on any person authorized in writing by any such authority to enforce any provision of a scheme, the powers of inspection referred to in section 42(1);
 - (o) declare that the provisions of section 47 shall *mutatis mutandis* apply with reference to any person who feels aggrieved by any decision or action taken in connection with a scheme by a designated authority; and
 - (p) provide generally for any other matter which, in the opinion of the Minister, is necessary or expedient in order to further or better achieve the objectives of a scheme, the generality of the powers conferred by this paragraph not being limited by the preceding paragraphs.

(2) The designated authority referred to in section 45(6)(a) of the Act, must enter into written agreement with the person it authorizes to exercise, perform or carry out any power, function or duty of that authority as provided for in section 46(2) of the Act.

(3) A designated authority who desires to extend the scope of the established scheme to include a kind of plant that has been declared in terms of the Act, a request for the inclusion of such plant must be submitted to the Registrar.

(4) The provisions of regulation 69(2) and (3) are applicable with the necessary changes for processing the request referred to in sub-regulation (3).

CHAPTER VII: GENERAL

Appeal against a decision or an action of the Registrar or designated authority

71.(1) An appeal in terms of section 47 of the Act must -

- (a) be lodged through the Director-General in writing within 60 days of the date on which the Registrar or designated authority has given any person referred to in that section written notice of the decision or action concerned or publication of the decision or action concerned in terms of regulation (journal);
- (b) state the reference number and date of the document or National Varietal List Journal by means of which such person was notified of such decision or action;
- (c) state the kind of plant, variety denomination and application or approval number of the variety concerned for which such a decision or action was taken;
- (c) state the grounds on which the appeal is based; and
- (d) be accompanied by proof of payment of the fee specified in item 10(i) of Table 2.

(2) The contact details of the Director-General, to which the appeal documentation must be submitted, may be obtained upon request from the office of the Registrar located within the department.

Remuneration of persons appointed in terms of the Act

72. (1) A person who is appointed in terms of:

- a) section 39 (3) for hearing of an objection; and
- b) section 48 (1) for consideration of an appeal

and who is not an employee, must be remunerated according to Category C 2 of the Manual for the Application of the System for the Administration of the Service Benefit Packages for Office-bearers of Certain Statutory and other Institutions.

(2) A member of the Advisory Committee appointed in terms of section 51 of the Act must receive subsistence and travelling allowance as determined by National Treasury regulations, and in accordance with the department's prescripts.

Repeal of existing Regulations

73. Regulations relating to establishments, varieties, plants and propagating materials made in terms of Acts repealed by the Act are hereby repealed.

Commencement of Regulations

74. These regulations comes into operation on 1 September 2025.

CHAPTER VIII: TABLES

- Table 1: Kinds of plants regulated by the Act
- Table 2: Tariffs
- Table 3: Quantities for non-commercial seed.
- Table 4: Requirements for seed
- Table 5: Compulsory certification of varieties
- Table 6: Ports of entry
- Table 7: Particulars relating to varieties to be published