

URUGUAY

EXECUTIVE

Law No. 18.467* of February 27, 2009

The Senate and the Chamber of Representatives of the Eastern Republic of Uruguay, having met at the General Assembly,
Decreed as follows:

Article 1 –Articles 14, 35, 37, 38, 40, 41, 44, 45, 48, 63, 65, 69, 72 and 75 of Law No. 16.811 of February 21, 1997 are hereby replaced to read as follows:

“Article 14 – The Institute shall have the following duties:

(A) To promote the development of seed activities at all stages.

(B) To monitor the production and marketing of seeds and at the same time to ensure compliance with the provisions laid down by this Law and the Regulations under it; to that end it shall be empowered to:

(1) sample, inspect, analyze and test seeds in the process of production, transportation, sale and offering or display for sale, in any place and at any time, in order to ascertain whether legal and regulatory provisions have been met;

(2) have access to places in which seeds are located or are in the process of being produced;

(3) effect the withdrawal from sale of any seed that does not meet the requirements of this Law; and,

(4) seek the assistance of the forces of law and order where necessary.

(C) To advise the Executive on matters of seed policy by issuing opinions prior and fundamental to the enactment of provisions related to seed activities.

(D) To keep the National Register of Cultivars and the General Register of the Seed Industry.

(E) To maintain the Register of Cultivar Ownership and grant the appropriate titles in accordance with national provisions and bilateral or multilateral international agreements.

(F) To effect the national and international certification of seeds, subject to observance of bilateral or multilateral international agreements.

(G) To maintain the country's official seed laboratory by carrying out analytical work and also issuing the corresponding certificates, subject to observance of bilateral or multilateral international agreements.

(H) To authorize and advise private seed testing laboratories in accordance with the applicable provisions.

(I) To process and implement arrangements for the import and export of seeds.

(J) To carry out, either by itself or through third parties, such investigations of technical character as it may consider necessary for the fulfillment of its duties and functions, and also such consultations or verifications as may have to be made with foreign organizations of the same kind.

(K) To enter into relations of mutual cooperation and agreements with public or private institutions, either national or foreign, and also with international or regional organizations.

(L) To promote the training and further training of officials concerned with the relevant sector, in coordination with national research and technical assistance bodies.

(LL) To set prices for:

· entries in the National Register of Cultivars, the General Register of the Seed Industry and the Register of Cultivar Ownership;

* Translation provided by the Office of the Union.

- annual fees for the maintenance of entries in the aforementioned registers;
- labels for the various categories of seeds;
- seed testing;
- applications and annual fees for authorization of seed testing laboratories, processing plants and other service providers associated with seeds;
- seed certification;
- applications for cultivar ownership titles and processing and grant thereof; and,
- any other service provided by the Institute in accordance with the rules governing matters within its jurisdiction; the prices set shall be in strict proportion to the cost of the services provided.

(M) To decide on and apply the appropriate sanctions for violations of the regulatory provisions established by this Law and the Regulations under it, and to set the amounts of the corresponding fines.

(N) To enforce the sanctions imposed by it, for the purposes of which the records of its final resolutions shall constitute the titles of enforcement; those rulings shall be considered final that are expressly or tacitly accepted by the recipient of the sanctions and also those that deny leave to appeal under Article 22 of this Law.

(O) To enter into agreements on payment for the sanctions imposed by it, where it sees fit.”

“Article 35 – The only batches of seed produced in the country that may be marketed are those that have been previously tested by authorized or official seed testing laboratories, whose test findings show that the seed meets prevailing quality standards.

The Executive shall, when regulating this provision, set the date of the entry into force thereof.”

“Article 37 – Where the test findings fall short of those prescribed by the regulations, the seed shall, in order to be offered for sale, be reclassified under the control of the National Seeds Institute with a view to the achievement of acceptable values.

Where reclassification is not appropriate, the National Seeds Institute may order its use as a consumer product or in industrial processes, or its destruction.”

“Article 38 – The seed institutions shall be responsible, when dealing with third parties and the National Seeds Institute, for the conformity of a seed to the quality standards laid down in this Law and the Regulations under it, and for the accuracy of the information given on the labels and packaging of the seed, when the said seed is sold and offered for sale by them, or when it is sold or offered for sale by third parties, and the liability of the said seed institutions shall be verified. In other cases, the trader selling the seed shall be liable.”

“Article 40 – Where the consumer has doubts concerning the genuineness, purity, germination or treatment specified on the labels of seeds that he or she has bought, he or she may seek official confirmation from the National Seeds Institute according to the procedure laid down in the relevant regulations.

Complaints concerning genuineness, purity, germination and processing shall be made during cultivation and up to the start of harvesting, as soon as the problem is discovered.

If it is found that the complaint is justified, the seller shall be obliged to repay the price of the seed and freight charges to the buyer, without prejudice to the sanctions provided for in this Law.

The buyer shall be obliged to return the seed that has not been sown, along with the corresponding packaging, any expenses associated with the return being payable by the seller.”

“Article 41 – It shall be prohibited to market any seed:

(1) in packaging that prevents the traceability process needed to guarantee the fulfillment of the provisions;

(2) together with information on the packaging or labels that is not expressly allowed by prevailing regulations;

(3) with a label or notice that in one way or another misleads as to the properties and condition of the seed or does not conform to prescribed standards; and,

(4) that does not conform to the requirements, tolerances and other specific conditions laid down to that end by the provisions of this Law.

The National Seeds Institute shall regulate the conditions in which seeds in any of the situations provided for in this Article are transported.”

“Article 44 – Cultivars entered in the Register referred to shall:

(1) possess a characterizing proper name that prevents them from being confused with another variety already registered or from misleading as to the properties of the seed;

(2) retain their original names, in the case of foreign cultivars;

(3) be distinguishable from other cultivars already registered;

(4) be sufficiently uniform in their characteristics as a whole, according to their reproductive or vegetative propagation system, and satisfy the conditions of stability that enable them to be identified;

(5) be the subject of national test data carried out in the form and under the conditions stipulated by the Executive;

(6) have a maintainer that is registered with the National Seeds Institute; and,

(7) be sponsored by agricultural engineers.

For the purposes of the national test data requirement, regulations issued by the National Seeds Institute shall specify the growing periods or cycles required according to the species concerned, and it may make exceptions for species in respect of which such testing is required.”

“Article 45 – The testing of cultivars for the purposes of acceptance in the National Register of Cultivars shall be the responsibility of the National Seeds Institute, which may conduct technical examinations either directly or through other public or private national institutions. The testing shall be essentially agronomic and have scientific backing that allows an assessment, at the experimental level, of how the cultivar behaves in the field.”

“Article 48 – The term of validity of entries in the National Register of Cultivars shall be determined by the Ministry of Livestock, Agriculture and Fisheries on a proposal by the National Seeds Institute, taking into consideration the particular characteristics of each species or groups of species.

“Article 63 – The activities described in Article 82(9) of this Law, and also the production for commercial purposes, processing, testing, storage, distribution, sale, import and export of seeds may only be carried out by those who have been entered in the General Register of the Seed Industry that is kept for such purposes by the National Seeds Institute.

Those registered under Decree Law No. 15.173 of August 13, 1981, and the Regulations under it, Decree 84/983 of March 16, 1983, and its amending Decrees 418/987 of August 12, 1987, and 519/991 of September 17, 1991, shall be considered entered in the Register created by this Article.”

“Article 65 – Nurseries, seed producers, seedsmen, seed laboratories and seed processors, importers and exporters shall conduct their activities under the technical supervision of a professional agricultural engineer, who shall be registered with the National Seeds Institute.”

“Article 69 – For a cultivar to qualify for protection, it shall meet all of the following requirements:

(A) It shall be new, in the sense that it shall not have been offered for sale or marketed with the consent of the breeder:

(1) within the Republic, for a period of more than one year immediately prior to the filing date of the application for protection; and,

(2) outside the Republic, for more than six years in the case of vines and trees, or more than four years in the case of all other plants.

(B) It shall be clearly distinguished from any cultivar, the existence of which is a matter of common knowledge on the filing date of the application for protection in terms of at least one morphological, physiological, cytological, chemical or other

important characteristic, shall fluctuate little, and be able to be described and recognized in precise terms.

(C) It shall be sufficiently uniform in its characteristics as a whole according to its system of reproductive or vegetative propagation.

(D) It shall remain stable in its essential characteristics, in the sense that, at the end of each cycle of propagation carried out in the manner specified by its breeder, it shall retain the characteristics by which the said breeder defined it.

(E) It shall have been given a denomination that is acceptable to the Registry in accordance with the provisions of the Regulations.”

“Article 72 – The cultivar that is the subject of the title of ownership may be used without the holder thereof being granted any right to compensation where:

(A) the product of cultivation is used or sold as a raw material or food;

(B) seed is set aside and sown for own use and not for commercial purposes. When it is a small farmer who sets aside and sows seeds for own use and not for commercial purposes, the present provision is public policy. The Executive, through the Ministry of Livestock, Agriculture and Fisheries, shall define the term ‘small farmer’; or,

(C) other breeders use it for experimental purposes or as a source of genetic material for the creation of new cultivars, provided that the protected cultivar is not used repeatedly and systematically for the commercial production of other cultivars.”

“Article 75 – The term of validity of the title of ownership shall run from the time of its provisional issue, and may not be less than 20 years or more than 25 years according to the species concerned and to the provisions of the Regulations.”

Article 2 – The following paragraph shall be added to Article 82 of Law No. 16.811, of February 21, 1997:

“18) ‘Maintainer’ means the natural person or legal entity responsible for the maintenance of a variety, which ensures that it conserves the characteristics of its variety throughout its life span and, in the case of hybrids, that the hybridization formula was followed.”

Article 3 – Articles 83, 85 and 86 of Law No. 16.811, of February 21, 1997, shall be replaced to read as follows:

“Article 83 – With respect to aspects not provided for in the foregoing definitions, the criteria laid down by the International Seed Testing Association or other bilateral or multilateral agreements to which the country is a party shall be observed.”

“Article 85 – The violations referred to in the foregoing Article shall be punished with the following, according to the seriousness of the violation and the background of the violator:

(A) Warning.

(B) Fine from 20 to 2,000 UR (readjustable units).

(C) Seizure of the merchandise or of the apparatus used to commit the violation.

(D) Destruction of the merchandise where appropriate.

(E) Suspension of the violator from the relevant register.

(F) Temporary or permanent disqualification.

(G) Partial or total, temporary or permanent closure of the premises of the company, whether owned by it or by third parties, and regardless of whether they are intended for storage, processing, marketing, laboratory testing or any other activity associated with seed production and trading.

Where appropriate, closure may affect only such premises as are used for a specific activity.

The sanctions provided for above may be applied in combination and adapted to the seriousness of the violation, the value of the merchandise and the background of the offender. The National Seeds Institute shall periodically publish, through the

relevant channel, details of the wages of offenders that have been sanctioned for committing violations categorized as 'serious' or 'very serious', and its sanction decisions shall be final. The publication shall list the name of the violator, the violation committed and the sanction administered.

"Article 86 – Agricultural engineers with technical responsibilities who violate the provisions laid down in this Law and the Regulations under it shall be liable to the following sanctions:

- (1) Warning.
- (2) The fines provided for in the foregoing Article.
- (3) Suspension of their status as seed experts for up to one year.

Sanctions shall be graduated and applied with due regard to the nature and seriousness of the violations, the degree of guilt and similar acts previously committed by the offender. The National Seeds Institute shall keep a register of violators and shall periodically publish, through the relevant channel, details of the wages of those with technical responsibilities that have been sanctioned for committing violations categorized as 'serious' or 'very serious', and its sanction decisions shall be final. The publication shall list the name of the technical violator, the violation committed and the sanction administered.

Companies shall be jointly liable for the financial sanctions imposed on their technical staff."

Meeting Room of the Chamber of Representatives,
Montevideo, February 17, 2009.

(signed)

NELSON RODRÍGUEZ SERVETTO
3rd Deputy Chairman

(signed)

MARTI DALGALARRONDO AÑÓN
Secretary

Presidency of the Eastern Republic of Uruguay

MINISTRY OF THE INTERIOR
MINISTRY OF EXTERNAL RELATIONS
MINISTRY OF ECONOMY AND FINANCE
MINISTRY OF NATIONAL DEFENSE
MINISTRY OF EDUCATION AND CULTURE
MINISTRY OF TRANSPORT AND PUBLIC WORKS
MINISTRY OF INDUSTRY, ENERGY AND MINING
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MINISTRY OF PUBLIC HEALTH
MINISTRY OF LIVESTOCK, AGRICULTURE AND FISHERIES
MINISTRY OF TOURISM AND SPORT
MINISTRY OF HOUSING, PLANNING AND THE ENVIRONMENT
MINISTRY OF SOCIAL DEVELOPMENT

Montevideo, February 27, 2009

Be it complied with, receipt acknowledged, informed, published and included in the National Registry of Laws and Decrees, the Law which amends various provisions of Law No. 16.811, of February 21, 1997, relating to the National Seeds Institute.

(signed)

Dr. TABARE VAZQUEZ
President of the Republic