

LAW

ON SEED MATERIAL OF AGRICULTURAL PLANTS

I. MAIN PROVISIONS

Article 1

This law regulates the conditions and manner for production, conditioning, control, quality assurance, marketing, post-control and importation of the seed material of agricultural plants: cereals, industrial plants, fodder plants, vegetable, medicinal, aromatic and spice plants, flowers, as well as mycelium of edible and medicinal fungi (hereinafter referred to as: the seed material), the procedure for recognition of agricultural plant varieties, entry of varieties in the Register of Agricultural Plant Varieties, and other issues of relevance for production and marketing of seed material.

For the production, marketing and import of genetically modified seed material as well as the recognition of varieties of genetically modified seed reproduction materials, provisions of law regulating genetically modified organisms shall apply.

Article 2

This Law shall not apply to seed material of forestry plants.

Article 3

The terms used in this Law shall have the following meanings:

- 1) **Seed material** is generative or vegetative parts of plants (seeds, tubers, bulbs, cloves, rhizomes, seedlings, mycelium etc used for multiplication and production of agricultural plants.
- 2) **Variety** is plant grouping within a single botanical tax on of the lowest known rank, which can be defined by the expression of the characters resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one of the said characters and considered as an entity in view of its ability to be propagated unchanged.
- 3) **Category of seed material** is a particular quality level of the agricultural plants seed material;
- 4) **Breeder of variety** is a company, or other legal person, or entrepreneur or a natural person which has created or discovered a new variety;
- 5) **Maintainer of variety** is a breeder or producer of seed material who maintains a variety according to the prescribed methods and guarantees that, in the course of maintenance, it remains uniform and stable;
- 6) **Seed sample** is the least prescribed quantity of seed, which is distinguishable for its homogeneity and which represents the batch from which it was taken;
- 7) **Seed lot** is certain quantity of seed which originates from the same plot and the same year of production, whose weight does not exceed the

highest acceptable quantity, which is homogenous and may be physically identified and which are designated with a unique number.

Article 4

Seed material may be placed on the market only if its category is determined in the procedure of recognition of seed material production.

Categories of seed material for specific species of agricultural plants shall be specified by the Ministry of Agriculture and rural development (hereinafter referred to as: the Ministry).

In the absence of the categories of certified seed referred to in paragraph 1 of this Article, the competent authority for seed material activities (hereinafter referred to as: competent authority) may, in current year, allow production of a lower category seed material from domestic production.

The type of packaging and marking of individual categories of seed material shall be specified by the Ministry.

II. PRODUCTION OF SEED MATERIAL

Article 5

A company, or other legal person or entrepreneur (hereinafter referred to as: the producer) may become involved in production of seed material if it is entered in the Register of Seed Material Producers (hereinafter referred to as: the Register of Producers).

A natural person may become involved in production of seed material on the basis of a contract for cooperation concluded with a producer, and the seed material produced in such cooperation shall be considered to be the production of the producer.

Person referred to in paragraph 2 of this Article shall submit to the competent authority the contract on cooperation with the producer, for implementation of the controls in production of seed material.

The methods, specific requirements, and the manner of production and marketing of the seed material of individual plant species or groups of plant species shall be specified by the Ministry.

Article 6

The competent authority shall determine conformity with the requirements for entry in the Register of Producers and keep the Register of Producers, as well as the records of persons referred to in paragraph 2 Article 5 of this law

The data from the Register of Producers shall be public.

The content and the manner of keeping the Register of Producers shall be specified by the Ministry.

Article 7

A producer shall be entered in the Register of Producers if it:

- 1) Owns the land necessary for production of seed material;
- 2) Employsa person responsible for production of seed material (hereinafter referred to as: the responsible person), who has graduated from specialist studies, namely the faculty of agriculture (department: field crops cultivation, vegetable cultivation, general department, or other department of plant production).

Entry in the Register of Producers shall be made on the basis of the application that contains the data about:

- 1) Producer (name, registered office, address, unique identification number, fiscal identification number, and code of business activity);
- 2) Responsible person (first and last name, address, unique identification number, and educational background);
- 3) Species, variety, and category of seed material.

Appended to the application referred to in paragraph 2 of this Article shall be the following documentation:

- 1) Proof of the right of disposal over, or use of, the agricultural land for seed production (an excerpt from the title deed or the lease contract);
- 2) Employment contract and proof of professional qualification of the responsible person;
- 3) Outline plan of production (data about the processing, cultivation of crops, protection of soil, preservation of biological and chemical properties of land, and production volumes;
- 4) Certificate of registration in CRPS.

Where the producer is involved in this business activity in more than one place, appended to the application shall be the documentation referred to in paragraph 3 items 1, 3 and 4 of this Article for each of the places of production.

The producer shall be under obligation to notify the competent authority about any change in the circumstances for involvement in production, within 15 days after the day such change occurred.

Article 8

The producer shall be removed from the Register of Producers if it is not longer involved in this business activity or no longer complies with the requirements referred to in Article 7 paragraph 1 of this Law.

The competent authority shall be under obligation to keep original documentation on the basis of which the Register of Producers is kept for at least three years after the day when the producer was removed from the Register of Producers.

Article 9

The producer shall be under obligation to keep a book of records about production of planting material.

The book of records referred to in paragraph 1 of this Article shall contain in particular:

- 1) Administrative decision on entry in the Register of Producers;
- 2) Name of the responsible person;
- 3) Layout of seed crops, namely facilities with clearly designated part where seed material is produced, the species, namely variety and year of production of the seed material with which the production is being established;
- 4) Total quantity of seed material for establishment of production;
- 5) Information about the production method;
- 6) Type and date of execution of works;
- 6a) Name, ID number and address of the person referred to in paragraph 2 Article 5 of this law
- 7) Quantities of total received, produced, sold, and destroyed seed material.

Form of the book of records shall be specified by the Ministry.

Article 10

The producer may produce the seed material of the varieties which are entered in the Register of Agricultural Plant Varieties.

The producer shall be under obligation to provide, from the owner of the variety, the consent for multiplication of the planting material of protected varieties, in accordance with the law which is governing plant varieties rights protection

Article 11

The producer shall be under obligation to:

- 1) Have the plan of production that defines critical points for specific species of agricultural species which could affect the quality, health status, and yield of seed material, and methods for monitoring and supervision of critical points;
- 2) Implement the measures with the aim of preventing the occurrence, or spread, of harmful organisms; take and submit samples to authorized laboratory with the aim of monitoring the quality of production; keep minutes about monitoring and supervising the critical points and about the measures implemented to ensure that the seed material is in conformity with prescribed standards;

- 3) Without delay notify the competent authority, or phytosanitary inspector about occurrence or suspected occurrence of harmful organisms at the place of production;
- 4) Facilitate monitoring and distinguishing each batch of seed material in all phases of production, warehousing, on the market and procurement of seed material;
- 5) Keep records and store the documentation about maintenance, namely the recognition or procurement of seed material which is used for reproduction or repeated production of seed material;
- 6) Implement the measures determined by expert supervision;
- 7) Perform other tasks determined by the law.

The producer must keep all documentation referred to in paragraph 1 item 5 of this Article for at least one year in the case of annual plants and for three years in the case of perennials.

Article 12

The producer may, for the requirements of a foreign client, from the imported seed material, produce, condition, and examine the seed material of the varieties other than those entered in the Register of Agricultural Plant Varieties.

Seed material referred to in paragraph 1 of this Article may be produced, conditioned, and examined upon the consent of the competent authority given on the basis of the contract with a foreign client under which such foreign client shall take over the entire quantity of the natural or conditioned seed material that was produced.

Production of seed material referred to in paragraph 1 of this Article shall be subject to health examination.

It shall not be allowed to market the seed material referred to in paragraph 1 of this Article in the territory of the Republic.

Production of seed material for the account of the local client can be carried out in another country and the based on the local client contracts and foreign producer, under the terms of the application of the method in accordance with special regulations governing the production of seed material of certain plant species, with approval of competent authority.

Seed material referred to in paragraph 5 of this article, for which the certification process is not completed, and is harvested in another country is indicated by the label and must be accompanied by required documentation in accordance with the law.

The conditions for the production of seed material referred to in paragraph 5 of this Article, the content and layout of labels and documentation referred to in paragraph 6 of this Article shall be prescribed by the Ministry. "

III. EXPERT SUPERVISION AND PRODUCTION OF SEED MATERIAL

Article 13

Production of seed material shall be subject to mandatory expert supervision.

Expert supervision over the production of seed material shall determine: origin of the used seed, the species, variety, and category, the authenticity and purity of species and varieties, spatial isolation, health status of crops, presence of weed, general condition and development of crops, pre crops, agro technical measures and expected yield of natural seed.

Article 14

Expert supervision over the production of seed material shall be conducted by the competent authority.

The competent authority may authorize a legal entity which meets the requirements in respect of personnel and equipment to carry out expert control (hereinafter referred to as the authorized legal person).

The authorized legal person may not be assigned the task of control of its own production of seed material.

The requirements to be met by the authorized legal person in respect of personnel and equipment's shall be specified by the Ministry.

Compliance with requirements referred to in paragraph 4 of this Article and authorization for conduction of expert control shall be issued by competent authority.

The manner and methods for conduction of expert control of the seed material and the content and deadlines for submission of reports about completed expert control shall be specified by the Ministry.

The authorized legal person shall notify the competent authority about the expert control that was completed, after expert control over each individual culture is completed.

The competent authority may authorize a registered producer which meets the requirements in respect of personnel and equipment to carry out expert control (hereinafter referred to as expert control under supervision).

The requirements to be met by the registered producer in respect of personnel and equipments shall be specified by the Ministry.

Article 15

The producer is required to submit an application on the production plan to the competent authority, by 15 September of the current year for the following year.

The producer may submit the application referred to in paragraph 1 of this Article, if:

- 1) It is entered in the Register of Producers;
- 2) The variety is entered in the Register of Agricultural Plant Varieties;
- 3) The producer has obtained the consent referred to in Article 10 paragraph 2 of this Law.

Article 16

"The producer is required to submit an application to the competent authority to carry out expert control in seed material production.

The form, content and deadlines for submitting applications for carry out of expert control referred to in paragraph 1 of this Article shall be specified by the Ministry. "

Article 17

Expert supervision and/or expert control under supervision relates to:

- 1) Control of seed crops, land, production facilities, storage facilities and preparation of seed material for marketing;
- 2) a review of documents, records and books;
- 3) testing of samples in order to confirm quality and plant health status;
- 4) Quality control of seed material prior to marketing, etc.

Article 18

For the seed material for which no category is prescribed, the certificate of recognition for the crops may be issued if the crops meet minimum requirements in respect of quality and health status.

Article 19

On the basis of the report on the completed expert control, the competent authority shall issue the certificate of recognition for the seed crops (hereinafter referred to as: the certificate).

The records about issued certificates referred to in paragraph 1 of this Article shall be kept by the competent authority.

Form and content of certificates, as well as a way of keeping the records referred to in paragraph 2 of this Article shall be specified by the Ministry.

The costs of expert control and issuance of certificates shall be borne by the producer.

"If expert control is carried out by competent authority, the fees generated on the basis of expert supervision are income of the Budget of Montenegro, and if expert control, or expert control under the supervision is carried out by authorized persons, these fees are income of authorized persons.

The costs referred to in paragraph 5 of this article for the expert control if carried out by competent authority shall be specified by the Ministry, taking care not to exceed the actual cost of services provided, and the fee for the expert supervision

carried out by authorized legal person shall be governed by a contract between the registered producers and authorized legal person. "

IV. CONDITIONING OF SEED MATERIAL

Article 20

Conditioning of seed material comprises a process of drying, cleaning, calibrating, shelling, chemical treatments, packing, sealing, labeling, and other similar actions.

Article 21

Seed material may be placed on the market if it is conditioned.

Natural, or unconditioned seeds that will be conditioned must have a certificate of recognition of seed crop.

Natural seed or unconditioned imported seed that will be conditioned must have the phyto- certificate, varietal certificate for seed (OECD) or corresponding document on varietal certification and seed quality certificate (ISTA) or equivalent document on quality certification, issued by the competent authority of the exporting country. "

Article 22

A company, or other legal person or entrepreneur (hereinafter referred to as: the conditioner) may become involved in conditioning of seed material if it is entered in the Register of Conditioners of Seed Material (hereinafter referred to as: the Register of Conditioners).

Article 23

A conditioner will be entered in the Register of Conditioners if it:

- 1) has a warehousing space for separate storage and keeping of natural (unconditioned), namely conditioned seed material of individual species, varieties, and categories, which provides for preservation of their quality and health status and the space for storage of wastes produced by conditioning of seed material;
- 2) has devices and equipment for grain drying, purification, selection, packaging, closing of packaging and sealing, depending on the species of the seed material that is being conditioned;
- 3) employed person responsible for the conditioning of seed material (hereinafter referred to as: the responsible person of the conditioner), who has graduated from the specialist studies, namely the faculty of agriculture (department: field crops cultivation, vegetable cultivation, general department or other department for plant production).

Entry in the Register of Conditioners shall be made on the basis of the application that contains the data about:

- 1) the conditioner (name, registered office, address, unique identification number, fiscal identification number, and code of business activity);
- 2) the responsible person (first and last name, address, unique identification number, and educational background);
- 3) species, variety, and category of the seed material.

Appended to the application referred to in paragraph 2 of this Article shall be the following documentation:

- 1) proof of the right of disposal over, or use of, the storage for placing and keeping of the seed material (an excerpt from the title deed, or the lease agreement);
- 2) proof of employment and qualifications of the responsible person;.
- 3) proof of registration in CRPS.

Where the conditioner is involved in this business activity in more than one place, appended to the application shall be the documentation referred to in paragraph 3 items 1, 2, and 3.

The conditioner shall be under obligation to notify the competent authority about any change in the circumstances for involvement in his business activity, within 15 days after the day such change occurred.

Article 24

Conditioners shall be removed from the Register of Conditioners if they are no longer involved in this business activity or no longer comply with the requirements referred to in Article 23 paragraph 1 of this Law.

Compliance with requirements referred to in Article 23 paragraph 1 of this Law shall be determined by the competent authority.

The appeal against the administrative decision on compliance with the requirements referred to in paragraph 2 of this Article, and against other individual administrative acts which, in accordance with this Law, issues the competent authority, shall be decided by the Ministry.

The administrative decision on entry of the conditioner in the Register of Conditioners shall indicate the species and categories of the seed material which the conditioner has the right to condition.

The competent authority shall be under obligation to keep the documentation on the basis of which the conditioners are entered in the Register of Conditioners, in original, for at least three years after the day the conditioner is removed from the Register of Conditioners.

The Register of Conditioners shall be kept by the competent authority.

The data from the Register of Conditioners shall be public.

The content, form, and the manner of keeping the Register of Conditioners shall be specified by the Ministry.

Article 25

If the seed material of a particular plant species and variety was conditioned by more than one conditioner, it shall be deemed that the seed material was conditioned by the conditioner who was issued the declaration in accordance with Article 38 of this Law.

Article 26

In the conditioning process, the conditioner may prepare the mixtures of different species and varieties of agricultural plants with the specific content of individual components and must meet the requirements in terms of equipment and technological process for the preparation of a mixture.

Each of the seed components in the mixture referred to in paragraph 1 of this Article must meet the requirements in respect of quality for such species of seed material and must be separately certified.

The requirements in respect of the composition and preparation of the seed mixture, marketing, type of packaging, marking, keeping the records, shall be specified by the Ministry..Records of the mixtures referred to in paragraph 3 of this Article shall be kept by the competent authority.

Article 26a

Mixtures of seed material may be put into the market on the basis of the approval of the competent authority, if the components of a mixture, before mixing, meet the requirements for putting into market.

An application for issuance of approval referred to in paragraph 1 of this Article the conditioner shall submit to the competent authority.

The application referred to in paragraph 2 of this Article shall include the name and composition of the a mixture (in percentages based on the weight of the various components) and use of a mixture, and if the conditioner owns the scientific evidence on the effectiveness of the mixture in preventing the spread of certain harmful organisms, that evidence will be enclosed.

The form and content of the application referred to in paragraph 2 of this Article shall be prescribed by the Ministry. "

Article 27

The conditioner shall be under obligation to keep the book of records and to, for at least six years, maintain the documentation about the quantity of the natural and conditioned seed material that was taken over.

The book of records referred to in paragraph 1 of this Article shall contain, in particular:

- 1) Administrative decision on entry in the Register of Conditioners;
- 2) Name of responsible person;
- 3) Layout of the space in the facility with clearly designated parts where unconditioned and conditioned seed material is located, with the designation of variety, namely species of seed material;
- 4) Total quantity of conditioned seed material;

5) Data about the manner of conditioning;

6) Date of the conditioning.

The form of the book of records referred to in paragraph 1 of this Article shall be specified by the Ministry.

Article 28

The conditioner shall be under obligation to destroy the wastes produced by the conditioning of the seed of small-seeded legumes, and the wastes inherent to the seed of parasite plants, weeds, and the seed infested by harmful organisms, in the presence of the phytosanitary inspector.

The wastes produced by the conditioning of the seed material of other plant species may be used for human and animal consumption or for industrial processing, if its quality is in compliance with the regulations that govern the relevant quality standards.

The Ministry shall prescribe the manner of destroying the wastes referred to in paragraph 1 of this Article.

Article 29

During the sowing, namely harvest, transportation and storing, and pending the conditioning, the natural seed must be mutually separated and designated.

Natural seed which is being transported from the field to the place of warehousing, namely storing or conditioning shall be accompanied by the documentation about the producer, land lot, species, variety and category of natural seed.

The conditioner shall be under obligation to, within five days after the day of receiving harvested, lifted and reaped seed material, for each individual seed crops, notify the competent authority about the quantity of natural seed that was taken over.

The manner for notification about the harvested, lifted and reaped seed material shall be specified by the Ministry.

V. QUALITY OF SEED MATERIAL

Article 30

The quality of seed material, in terms of this law, shall be cleanliness, moisture, germination, health status, calibration and the purity of species and varieties.

Article 31

The quality of seed material must be determined for each lot of seed, prior to marketing.

Allowable quantity of the seed in lot for individual species of seed material and their mixtures shall be specified by the Ministry.

Article 32

In respect of quality, the seed material must comply with the prescribed quality norms.

Examination and determination of the seed material quality shall take place before its marketing.

The conditioner or the importer shall be responsible for the quality of seed material in the market.

The quality of seed material for certain species of agricultural plants shall be specified by the Ministry.

Article 33

Examination and quality determination of the seed material shall be performed by the laboratory authorized by the competent authority (in hereinafter authorized laboratory) and which meets the requirements in terms of personnel, facilities and equipment.

The conditioner shall submit an application for examination and quality determination and seed material sampling to authorized laboratories.

Appended to the application referred to in paragraph 2 of this Article, the conditioner shall submit the certificate on recognition of seed crops.

Further requirements referred to in paragraph 1 of this Article shall be specified by the Ministry. "

Article 34

The authorized laboratory shall take a sample of seed material to determine the quality.

Activities of sampling the seed material referred to in paragraph 1 of this Article may be performed by a company, or other legal person or entrepreneur, if it employs a person who has graduated from specialist studies, namely the faculty of agriculture (department for field crops cultivation, vegetable cultivation, general department or department for plant protection), with at least five years of relevant work experience.

Compliance with the requirements shall be determined and the records of persons who take the samples referred to in paragraph 2 of this Article shall be kept by the competent authority.

The quantity of seed material that is taken as a sample and the manner of designating the samples shall be specified by the Ministry.

Form of the notification for examination and determination of the seed material quality namely for taking samples shall be specified by the Ministry.

Article 35

The authorized laboratory shall issue the quality examination report about the completed examination of the seed material quality.

The authorized laboratory shall be under obligation to keep the examined samples of seed material for a period of one year after the day the quality examination report is issued, and the documentation on examination of seed material for at least six years after the day of issuing the report referred to in paragraph 1 of this Article.

The authorized laboratory shall be under obligation to keep the examined samples of tubers, bulbs, and cloves for a month after the day of issuing the report on examination of their quality, and the documentation on examination for six years after issuing the report referred to in paragraph 1 of this Article.

Methods of sampling and seed material quality examination, the form of the report on quality seed examination, and the manner of keeping the samples of tubers, bulbs, and cloves shall be specified by the Ministry.

Article 36

The conditioner, namely the importer shall be liable for the damage incurred to the end user, if the seed material does not meet the requirements in respect of the declared species, varieties and quality of seed material.

VI PACKAGING, DECLARATION AND LABELING

Article 37

Seed material on the market shall correspond to the declared species and variety and the prescribed quality norms; it must be in original packaging and have the declaration attached together with the bill of lading and the label (the declaration should be attached to the packaging).

Seed material on the market shall correspond to the quality indicated in the declaration and on the label.

Seed material in batches must be in the original packaging and designated in a prescribed manner that provides for the originality of packaging and preservation of its quality.

If the seed material is organic or genetically modified it must be marked in accordance with the regulations governing organic production or the genetic modified organisms, and if it is treated with chemical agents or phytopharmaceutical preparations, used assets, and preparations must be indicated on the declaration.

Depending on the species and category of the seed material, the declaration and the label must be unique in respect of its contents, size, color, and must have a serial number.

Seed material that is packed in small packaging shall not be accompanied by declaration along with the bill of lading, and the label on the packaging must be in conformity with the requirements referred to in paragraph 5 of this Article.

The quantity of the seed material for small packaging referred to in paragraph 6 of this Article, for individual plant species, shall be specified by the Ministry.

The quantity of seed material for small packages referred to in paragraph 6 of this Article, as well as manner of packaging and marking of seed mixture and individual plant species shall be specified by the Ministry.

Article 38

The conditioner of seed material shall submit to the authorized legal person the application for issuance of the declaration, namely the label.

The application referred to in paragraph 1 of this Article shall be accompanied by a laboratory report on completed research quality seed material.

Imported seed material shall be declared by the exporting country and the importer of seed material shall be responsible.

The label for small packaging of seed material shall be issued by the conditioner, namely the importer.

Packaging and labeling of seed material shall be made by the conditioner at the place of conditioning, in the presence of the representative of the authorized legal person.

Records about the issued declarations, namely the labels, shall be kept by the authorized legal person.

Declaration and labels of imported seed material must be translated into Montenegrin language, and importer is responsible for translation.

Form of the declaration and the label, their contents, and the manner of issuing and keeping the records, shall be specified by the Ministry.

Article 39

It shall be forbidden to place on the market the seed material if its expiry date indicated on the declaration and the label has expired, namely before the validity period of the declaration is extended.

Seed material referred to in paragraph 1 of this Article may be placed on the market if it is established in the examination procedure that it conforms to the prescribed quality.

The manner of packaging, labeling and declaration of seed material, a request for extension of the declaration, as well as the procedure and extending period of validity of the declaration shall be specified by the Ministry.

Article 40

It shall be forbidden to repack the seed material that is in the original packaging, regardless whether it is from domestic production or imports.

Without prejudice to paragraph 1 of this Article, conditioner, namely the importer may repack the seed material, upon the consent of the competent authority.

Conditioner, namely the importer shall submit to the competent authority the application for repacking the seed material.

Appended to the application referred to in paragraph 3 of this Article, the conditioner or the importer, shall submit the varietal certificate for seed (OECD) or corresponding document on varietal certification and seed quality certificate (ISTA) or equivalent document on quality certification and phyto-certificate issued by the competent authority of the exporting country.

VII MARKETING OF SEED MATERIAL

Article 41

A company, or other legal person or entrepreneur may become involved in marketing of seed material if it is entered in the Register for Wholesale Marketing of Seed Material or in the Register for Retail Marketing of Seed Material.

A company, or other legal person or entrepreneur may be entered in the Register for Wholesale Marketing of Seed Material if it employs, on full time basis, for marketing activities, a person who has graduated specialist studies, namely the faculty of agriculture (department – field crops cultivation, vegetable cultivation, general department, or department for plant production), namely the corresponding specialist studies, and if has a facility for warehousing, namely sales of seed material.

A company, or other legal person or entrepreneur may be entered in the Register for Retail Marketing of Seed Material, if it employs, in each sales facility, a person who has finished secondary agricultural school, 4th degree.

Without prejudice to paragraphs 2 and 3 of this Article, a company, or other legal person or entrepreneur, who sells the seed material in small packaging, shall not be required to employ a person referred to in paragraph 3 of this Article.

Compliance with the requirements referred to in paragraphs 2 i 3 of this Article shall be determined by the competent authority.

Entry in the Register for Wholesale Marketing of Seed Material, namely in the Register for Retail Marketing of Seed Material shall be made upon application.

The Register for Wholesale Marketing of Seed Material, namely the Register for Retail Marketing of Seed Material shall be kept by the competent authority.

The data from the Register for Wholesale Marketing of Seed Material, namely the Register for Retail Marketing of Seed Material shall be public.

The content, form, and manner of keeping the Register for Wholesale Marketing of Seed Material and the Register for Retail Marketing of Seed Material, and the

content of the application for entry in such Registers, with the required documentation, shall be specified by the Ministry.

Article 42

Only seed material of the varieties entered in the Register of Agricultural Plant Varieties and may be placed on the market.

Article 43

Seed material on the market must be warehoused and stored in the manner and under conditions that provide for preservation of their quality.

Marketing of seed material may take place only in a sales facility.

The requirements to be met by the sales facility and the warehouse, and the manner and conditions for warehousing of seed material shall be specified by the Ministry.

Article 44

Marketing of the seed material intended for organic production, in addition to the requirements specified in this Law, shall be governed by the requirements specified in the regulations that relate to organic production.

VIII IMPORTATION OF SEED MATERIAL

Article 45

A company, or other legal person or entrepreneur (hereinafter referred to as: the importer) may become involved in importation of seed material, if owning or using under a lease contract a registered customs warehouse and if it is entered in the Register of Importers.

The importer may import the seed material varieties which are entered in the Register of Agricultural Plant Varieties and which have the phytocertificate issued by the competent authority of the exporting country..

Compliance with requirements referred to in paragraph 1 of this Article shall be determined by the competent authority.

Entry in the Register of Importers shall be made on the basis of an application.

The Register of Importers shall be kept by the competent authority.

The data from the Register of Importers shall be public.

The content, form, and manner of keeping the Register of Importers and the content of the application shall be specified by the Ministry.

Article 46

Seed material may be imported only in its original packaging.

Natural seed may be imported if it is certified and produced for the account of a domestic client.

Packaging, declaration, and labeling of conditioned natural seed shall be made in accordance with Article 38 of this Law.

The importer shall be under obligation to keep records of the imported quantities of seed material and seed mixtures.

The content, form, and manner of keeping the records referred to in paragraph 4 of this Article shall be specified by the Ministry.

Article 47

Imported seed material, with dispatch, must have the phyto-certificate, varietal certificate for seed (OECD) or corresponding document on varietal certification and seed quality certificate (ISTA) or equivalent document on quality certification and phyto-certificate issued by the competent authority of the exporting country.

Imported seed material shall be accompanied by a declaration issued by the competent authority of the exporting country, and, when it is placed on the market in the territory of the Republic, it shall be designated in accordance with Article 38 of this Law.

Seed material of the plant species that are not covered by the OECD certification system, and importation of seed material for the countries which are not the OECD Member Countries shall be accompanied by the document on certification issued by the competent authority of the exporting country.

Quality seed material referred to in paragraph 3 of this Article must be examined in accordance with this Law.

Article 48

Seed material may be imported only from the producers who are registered and under supervision of the competent authority of the exporting country.

Seed material which is being imported shall be subject to mandatory control of the certification and the quality, which shall be conducted by the phytosanitary inspector, at the border crossing.

The importer shall be under obligation to submit a sample of the imported seed material to the scientific-research institution which conducts examination of the value for cultivation and use of a variety, in order to be examined and kept in the referential collection.

IX. RECOGNITION OF THE AGRICULTURAL PLANT VARIETY AND ENTRY IN THE REGISTER OF AGRICULTURAL PLANT VARIETIES

1. Recognition of Agricultural Plant Variety

Article 49

Recognition of agricultural plant variety, in the context of this Law, shall mean the recognition of a variety (hereinafter referred to as: recognition of variety), if it results from hybridization or selection, namely if it is biologically different from other recognized variety which was used as a standard variety in the recognition process.

Article 50

In the procedure of variety recognition, the quality and other essential properties are established on the basis of which the variety may be recognized, and seed material of such variety may be multiplied and placed on the market in the territory of the Republic as certified.

Article 51

A variety shall be recognized if it is determined that:

- 1) it is distinct, uniform, and stable (DUS test);
- 2) it has a favorable value for cultivation and use (VCU test) if it is prescribed for that species;
- 3) denomination of the variety was determined in accordance with the law.

Article 52

A variety is distinct if it is clearly distinguished for at least one characteristic from any other variety of the same species .

A variety is uniform if it is sufficiently unvarying in essential properties in respect of the variations which may be expected due to specific character of its reproduction.

A variety is stable if its essential properties remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.

Article 53

Value for cultivation and use of a variety shall be deemed to be:

- 1) yield;

- 2) product quality;
- 3) other properties that may contribute to the increase of production volumes or improvement of quality.

Article 54

The process of variety recognition shall be instigated on the basis of the application submitted by the breeder of variety or his authorized agent (hereinafter referred to as: the applicant).

The application referred to in paragraph 1 of this Article shall be submitted for each variety separately.

The denomination of a variety can be any word, a combination of words, a combination of words and numbers, or a combination of letters and numbers, unless the legislation regulating the protection of new varieties of agricultural and forest plants provides otherwise. The denomination of the variety must provide enough information to distinguish between such variety and any other known variety of the same or related species. The denomination of the variety may not be misleading, in particular with regard to the origin and properties of the variety.

The form and content of the application referred to in paragraph 1 of this Article, and the criteria for determination of the denomination of varieties shall be prescribed by the Ministry.

Article 55

At the request of the competent authority, the applicant shall be under obligation to, together with the application, present the documentation about the work done on creation of a variety.

The data and the documentation related to origin of the source material and description of the process of variety creation shall constitute a professional secret.

Article 56

Competent authority shall be under obligation to inform the applicant that the variety shall be examined and to ask the applicant to supply a quantity of seed material required for examination.

On the basis of the information referred to in paragraph 1 of this Article, the applicant shall be under obligation to timely submit to the competent authority the seed material in the quantity and in the manner prescribed by the Ministry.

If the applicant fails to meet the requirements referred to in paragraph 2 of this Article, the application shall be rejected.

Article 57

Distinctness, uniformity and stability of a variety, as well as the value for cultivation and use of a variety, shall be determined by examinations at the experiment field and in laboratory.

For all plant species or a group of plant species, the place, methods and duration of examination shall be specified by the Ministry.

Costs of the examination referred to in paragraph 1 of this Article shall be borne by the applicant.

Article 58

Examination of a variety at the experiment field and in laboratory shall be conducted under the codes which shall constitute a professional secret. The codes shall be opened and closed each year and the competent authority shall notify the applicant about the findings obtained.

Article 59

Examinations in the variety recognizing procedure with the aim of determining the value for use of a variety shall be made with one or more than one variety standard at the same time.

A variety standard may only be such variety which is entered in the Register of Agricultural Plant Varieties and which, according to its biological and production properties, has the highest value for the purpose for which the examination is being conducted.

If, for a particular species of agricultural plants, a type within the species of agricultural plants, or for a specific purpose, the variety standard referred to in paragraph 2 of this Article cannot be determined, the variety shall be examined without the variety standard for a period of one year.

Article 60

Examination of a variety at the experiment field, namely in the laboratory, shall be made by a legal or natural person who has the required land, equipment, and professionals for conduction of examination (hereinafter referred to as: the experimenter).

The contract with the experimenter for examination of a variety at the experiment field, namely in the laboratory, shall be entered into with the competent authority, in accordance with the law.

Compliance with requirements referred to in paragraph 1 of this Article shall be determined by the competent authority.

Competent authority shall accept results of the DUS tests made in the UPOV Member Countries.

The experimenter who has entered into the contract on examination of the variety at the experiment field, namely in the laboratory, shall be under obligation to submit to the competent authority the results of the examinations

conducted according to the prescribed method and the obligations under the contract.

The requirements referred to in paragraph 1 of this Article shall be specified by the Ministry.

Article 61

Processing of the results of examinations referred to in Article 60 paragraph 6 of this Law shall be made by the competent authority.

Processing of the results referred to in paragraph 1 of this Article shall be made according to the method which shall be specified by the Ministry.

Final results of examination shall be submitted to the expert commission with the aim of assessing the value for cultivation and use of the variety, and its distinctness, uniformity, and stability, while the annual result shall be submitted to the applicant.

Expert commission referred to in paragraph 3 of this Article shall be set up by the competent authority.

Article 62

For the vegetable varieties which, after the first two years of examination at the experiment field, demonstrated better value for cultivation and use than the variety standard, the applicant may submit to the competent authority the application for provisional recognition of variety.

The application for provisional recognition of s vegetable variety shall be considered by the expert commission referred to in Article 61 paragraph 3 of this Law.

Pursuant to the proposal of the expert commission referred to in paragraph 2 of this Article, the competent authority shall issue the administrative decision on provisional recognition of a vegetable variety for the period of one year.

During the validity period of the provisional recognition of a variety, the examination of such variety shall continue in accordance with this Law.

Article 63

On the basis of the results of examination of the variety at the experiment field, namely in the laboratory, and upon the proposal of the expert commission referred to in Article 61 paragraph 3 of this Law, the competent authority shall issue the administrative decision on recognition of the variety or on rejection of the application.

2. Entry in the Register of Agricultural Plant Varieties

Article 64

On the basis of the administrative decision on recognition of a variety, namely on provisional recognition of a variety, the competent authority shall enter such variety in the Register of Agricultural Plant Varieties, except for ornamental, aromatic and medical plants for which no registration is required.

The Register of Agricultural Plant Varieties shall be kept by the competent authority.

In the period for which a variety is entered in the Register of Agricultural Plant Varieties, the seed of such variety may be placed on the market.

The content and manner of keeping the Register of Agricultural Plant Varieties shall be specified by the Ministry in more detail.

Article 65

The Register of Agricultural Plant Varieties shall contain the data, in particular about:

- 1) newly-created domestic varieties;
- 2) foreign varieties recognized by the competent authority of a foreign country;
- 3) domestic and domesticated varieties;
- 4) varieties which are provisionally recognized. A variety entered in the Register of Agricultural Plant Varieties shall be subject to mandatory examination of its value for cultivation and use (VCU TEST) according to the prescribed methods and for the purposes of inclusion in the List of Recommended Varieties.

Examination of the varieties referred to in paragraph 1 of this Article shall be made in accordance with Article 57 paragraph 2 of this Law.

Article 66

Domesticated varieties which do not meet the requirements prescribed by this Law for entry in the Register of Agricultural Plant Varieties may be entered in the Register of Agricultural Plant Varieties and they shall be specially designated.

Samples of the seed material of domestic and domesticated varieties which are entered in the Register of Agricultural Plant Varieties shall be kept in the referential collection of plant genes in accordance with the regulations that govern plant genetic resources.

The competent authority shall enter the varieties referred to in paragraph 1 of this Article in the Register of Agricultural Plant Varieties on the basis of common knowledge about value for cultivation and use of the varieties.

A foreign variety shall be entered in the Register of Agricultural Plant Varieties if it is recognized by the competent authority of the foreign country, if it has proof of owner, maintainer, namely authorized agent, and the DUS test results.

A sample of the variety which is entered in the Register of Agricultural Plant Varieties or whose entry is in process shall be kept as a standard sample in the referential collection.

Entry of a foreign variety in the Register of Agricultural Plant Varieties shall be made on the basis of the application submitted by the user of such foreign variety.

The form and contents of the application referred to in paragraph 4 of this Article and the documentation to be appended to the application shall be specified by the Ministry.

Article 67

The competent authority shall issue the administrative decision on removal of a variety from the Register of Agricultural Plant Varieties, if:

- 1) fifteen years have expired after the day the variety was entered in the Register of Agricultural Plant Varieties;
- 2) the applicant so requests;
- 3) the maintainer of the variety does not provide for the maintenance of the variety in the manner that guarantees preservation of the certification, uniformity and stability;
- 4) the owner of the variety or his authorized agent does not provide the sample of the seed of variety as required for verification of the certification, uniformity and stability, and for the preservation of standard sample and its regeneration.

A variety which was removed from the Register of Agricultural Plant Varieties may be placed on the market for not more than three years after the day of its removal from the Register of Agricultural Plant Varieties.

Article 68

The competent authority shall determine the list of varieties entered in, namely removed from the Register of Agricultural Plant Varieties, as well as the List of Recommended Varieties.

The list of recommended agricultural plant varieties shall be published in the "Official Gazette of Montenegro".

Article 69

A fee shall be payable for the recognition and entry in the Register of Agricultural Plant Varieties.

The fee referred to in paragraph 1 of this Article shall be paid by the applicant.

Level of the fee referred to in paragraph 1 of this Article shall be determined by the Government of Montenegro.

The fee referred to in paragraph 1 of this Article shall be the revenue of the budget of Montenegro.

Article 70

The sample of a variety which was entered in the Register of Agricultural Plant Varieties or whose entry is in process shall be kept as the standard sample.

3. Maintenance of Variety

Article 71

The maintainer of a variety shall be under obligation to maintain the variety according to the prescribed methods in the period before the variety is entered in the Register of Agricultural Plant Varieties.

The maintainer of a variety shall be under obligation to, at the request of the competent authority, within 15 days submit the sample of seed material of the variety, for the purposes of:

- 1) verifying whether the variety is being maintained in the manner that does not change its certification, uniformity, and stability;
- 2) keeping of standard sample and its regeneration.

Variety maintenance method shall be specified by the Ministry.

Article 72

Supervision over maintenance of a variety shall include verification of maintenance of the certification, uniformity, and stability of such variety.

Supervision over maintenance of a variety shall be exercised by the authorized legal person.

If the competent authority, on the basis of the results of the supervision over maintenance of a variety referred to in paragraphs 1 and 2 of this Article determine that the maintainer of a variety did not maintain the variety in the manner which guarantees preservation of the certification, stability, and uniformity, it shall be seized the right to maintain the variety, and if it is the only maintainer, the variety shall be removed from the Register of Agricultural Plant Varieties.

Supervision over the maintenance of variety shall be conducted according to the methods which shall be specified by the Ministry.

Article 73

Costs of the supervision over maintenance of variety shall be borne by such maintainer of variety from whom the sample was taken.

X. CONTROL OF SEED

Article 74

Seed which is being produced, conditioned and placed on the market shall be subject to control and standard sample of seed material shall be used as a control sample.

Control of seed shall verify the certification (originality), genetic purity, health status, and conformity with other requirements in respect of the quality of agricultural plant seed.

Article 75

Control of seed shall be conducted by the authorized legal person.

Article 76

The Ministry shall prescribe the methods of seed sampling, percent of the sample that is taken every year for control of seed, and the manner of conducting the control of seed.

Article 77

Costs of the control of seed shall be borne by the Ministry.

In the case when the sample of seed does not conform to the prescribed, namely the declared quality, costs of the control shall be borne by the person from whom the sample of seed was taken.

XI. INSPECTION SURVEILLANCE

Article 78

Inspection surveillance over the implementation of this Law shall be conducted by the competent authority through the phytosanitary inspector, in accordance with the law.

1. Powers of the Inspector

Article 79

Phytosanitary inspector shall conduct inspection surveillance, particularly in respect of:

- 1) Compliance with the requirements for entry in the prescribed registers;
- 2) Keeping records about the production of seed material;
- 3) Recognition of agricultural plant variety;
- 4) Varieties entered in the Register of Agricultural Plant Varieties and exercise of the right to use a protected variety.

2. Administrative Measures and Actions

Article 80

In addition to the administrative measures and actions prescribed by the law that governs inspection surveillance, after determining that the law or other regulation was violated, the phytosanitary inspector shall take the following administrative measures and actions:

- 1) Ban the production of seed material, if it was not entered or was removed from the Register of Producers;
- 2) Ban the production of seed material, if the application for conduction of expert control was not submitted in accordance with Article 15 of this Law;
- 3) Ban the production, use and marketing of seed material of the varieties which are not entered in the Register of Agricultural Plant Varieties, namely which were removed from the Register of Agricultural Plant Varieties;
- 4) Ban the production, use, and marketing of seed material in contravention with the provisions of this Law;
- 5) Ban the marketing of seed material outside the sales facility;
- 6) Confiscate and destroy the seed material which is being produced, used, and placed on the market in contravention of the provisions of this Law.

XII PENAL PROVISIONS

Article 81

A fine amounting from 700€ to 25.000€ shall be imposed on the legal person or entrepreneur for the infringement, if it:

- 1) Packs and designates individual categories of seed material in contravention of Article 4 paragraph 4 of this Law;
- 2) Becomes involved in production, marketing, and importation of seed material and is not entered in the Register of Producers, the Register for Wholesale Marketing of Seed Material, and the Register for Retail Marketing of Seed Material, and the Register of Importers (Article 5 paragraph 1, Article 41 paragraph 1, and Article 45 paragraph 1);

- 3) Fails to notify the competent authority about the data about the change of conditions for conduction of business activity within the prescribed term (Article 7 paragraph 5, and Article 23 paragraph 5);
- 4) Produces the seed material varieties which are not entered in the Register of Agricultural Plant Varieties (Article 10);
- 5) Places on the market in the territory of the Republic the seed material it has produced, conditioned, or examined for the requirements of a foreign client (Article 12 paragraph 4);
- 6) Performs the tasks of expert control over the production of seed material and does not meet the prescribed requirements (Article 14 paragraph 2);
- 7) Becomes involved in conditioning of seed material and is not entered in the Register of Conditioners (Article 22);
- 8) Does not keep the examined samples and the documentation about examination of seed material within the terms prescribed in Article 35 paragraphs 2 and 3 of this Law;
- 9) Places on the market the seed material which does not conform with the quality designated in the declaration and on the label (Article 37 paragraph 2);
- 10) Places on the market the seed material to which the expiry period indicated in the declaration and the label has lapsed, namely before the validity period of declaration is extended (Article 39 paragraph 1);
- 11) Places on the market the seed material of varieties which are not entered in the Register of Agricultural Plant Varieties (Article 42);
- 12) Imports the seed material which is not in its original packaging (Article 46 paragraph 1);
- 13) Imports the natural seed which is not certified and was not produced for the account of a domestic client (Article 46 paragraph 2);
- 14) Imports the seed material in contravention of Articles 47 and 48 of this Law;
- 15) Places on the market the varieties of seed material after expiry of the period of three years after removal from the Register of Agricultural Plant Varieties (Article 67 paragraph 2);
- 16) Does not perform the tasks of the supervision over the maintenance of varieties in accordance with Article 72 of this Law.

For the infringement referred to in paragraph 1 of this Article a fine shall be imposed on the responsible person in the company, or natural person, in the amount from 100€ to 3.000€.

For the infringement referred to in paragraph 1 of this Article a fine shall be imposed entrepreneur, in the amount from 300€ to 8.000€.

For the infringement referred to in paragraph 1 of this Article, in addition to a fine, a protective measure of banning the conduction of business activity in the duration of six months may be imposed.

Article 82

A fine amounting from 600€ to 22.000€ shall be imposed on the legal person, if it:

- 1) Does not conduct expert control over the production of pre-basic and other categories of seed material in the prescribed manner and according to the prescribed methods (Article 14 paragraph 6);
- 2) Places on the market the seed material which is not conditioned (Article 21 paragraph 1);
- 3) Does not destroy the wastes produced by conditioning of the seed of small-seeded legumes, and the wastes from the parasite plants, weeds, and the seed infested by harmful organisms, in the presence of the phytosanitary inspector (Article 28 paragraph 1);
- 4) Acts in contravention of Article 31 of this Law;
- 5) Does not keep records about the issued declaration and labels (Article 38 paragraph 5);
- 6) Repacks and calibrates the seed material from domestic production and from imports which is in original packaging, namely without the permit of the competent authority (Article 40 paragraphs 1 and 2).

For the infringement referred to in paragraph 1 of this Article a fine shall be imposed on the responsible person in the company, or natural person, in the amount from 50€ to 2.000€.

For the infringement referred to in paragraph 1 of this Article a fine shall be imposed entrepreneur, in the amount from 200€ to 7.000€.

Article 83

A fine amounting from 500€ to 20.000€ shall be imposed on the legal person, if it:

- 1) Does not submit to the competent authority the application on production plan within deadlines specified in Article 15, paragraph 1 of this law; does not submit a report on the competent authority to ".
- 2) Does not submit to the competent authority the application for the expert control referred to in Article 16 paragraph 2);
- 3) Does not prepare the mixtures of different varieties or species of agricultural plants in particular percents of individual components and the components do not meet the quality requirements for such species of seed material (Article 26 paragraphs 1 and 2);
- 4) Does not keep the book of records about quantity of the natural seed and conditioned seed material that were taken over and does not keep the documentation for at least six years (Article 27 paragraph 1);
- 5) Does not, during the harvest, namely crop, transportation and storage, keep the natural seed mutually separated and designated, until the conditioning (Article 29 paragraph 1);

- 6) Does not notify the competent authority, within five days after the receipt of harvested, lifted, and reaped seed material, for each of the seed crops, about the quantity of natural seed that was taken over (Article 29 paragraph 3);
- 7) Does not warehouse and keep the seed material on the market in the manner and under conditions which provide for preservation of its quality (Article 43 paragraphs 1 and 3);
- 8) Markets seed material outside the sales facility (Article 43 paragraph 2);
- 9) Does not keep records about the imported quantities of seed material and seed mixtures (Article 46 paragraph 4);
- 10) Does not submit the sample of imported seed material to the scientific-research institution (Article 48 paragraph 3).

For the infringement referred to in paragraph 1 of this Article a fine shall be imposed on the responsible person in the company, or natural person, in the amount from 30€ to 2.000€.

For the infringement referred to in paragraph 1 of this Article a fine shall be imposed entrepreneur, in the amount from 150€ to 6.000€.

Article 83a

For infringement referred to in Article 83 paragraph 1 of this Law, a fine may be imposed on the spot in the amount up to EUR 200 for a natural person and responsible person in the legal entity.

For infringement referred to in Article 83 paragraph 1 of this Law, a fine may be imposed on the spot in the amount up to EUR 2.000 for a legal person.

For infringement referred to in Article 83 paragraph 1 of this Law, a fine may be imposed on the spot in the amount up to EUR 400 for an entrepreneur.

Article 84

A fine amounting to 100€ to 3.000€ shall be imposed for infringement on a natural person if it becomes involved in the production of seed material and has not entered into a contract with the producer of seed material (Article 7 paragraph 2).

XIII TRANSITIONAL AND FINAL PROVISIONS

Article 85

A company, or other legal person or entrepreneur involved in the production, marketing and importation of seed material shall be under obligation to render its business compliant with this Law, within one year after the coming into force date of this Law.

Article 86

The regulations on the basis of the authorizations under this Law shall be adopted within six months after the coming into force date of this Law.

Until the adoption of the regulations on the basis of this Law, the regulations shall apply that were adopted on the basis of the Law on Seed and Planting Material ("RM Official Gazette", Nos. 39/92 and 59/92) and the Law on Recognition of Agricultural and Forest Plant Varieties ("FRY Official Gazette", Nos. 12/98 and 37/02), unless they are in contravention of this Law.

Article 86a

Implementing by-laws for this Law shall be issued not later than two years following the effective date of this Law.

Article 87

On the coming into force date of this Law, provisions of the Law on Recognition of the Agricultural and Forest Plant Varieties ("FRY Official Gazette", Nos. 12/98 and 37/02) relating to the recognition of the seed of agricultural plant varieties shall not apply and the provisions of the Law on Seed and Planting Material ("RM Official Gazette", No. 39/92) relating to the seed of agricultural plants shall cease to apply.

Article 88

This Law shall come into force on the eighth day after its publication in the " Official Gazette of Montenegro ".