

## **SEED LAW OF THE KYRGYZ REPUBLIC**

This Law includes the main provisions regulating the production, certification, distribution and use of seed and propagation material of all plant species and provides the legal basis for seed production entities and regulates their interrelations with other persons and entities of seed production.

### **Article 1. Definitions**

The following definitions are used in this Law:

Accreditation - official acknowledgement of powers to exercise certain activities in seed certification

Introduction into Trade –availability, offer, storage, handover, shipment or delivery of seeds for sale and consent to exchange or receive as remuneration.

Seed Owner –physical or legal entity that owns seed on legal ground

Patent Owner– physical or legal entity (plant breeder, author of the variety, employer, assignee, heir) or entities of any form of ownership, holding a patent for a certain variety in a legally prescribed manner.

The National Catalogue of Varieties and Hybrids Released for Use - the list of varieties and hybrids which are released for use at the territory of the Kyrgyz Republic after the official testing (henceforth the National Register).

Post Control – identify the varietal attributes of agricultural plants and seed and identify the varietal purity of plants by sowing of seed at the special plots and their follow-up check.

Inspection - identify the varietal characteristics of seed as well as pomological conformity of used varieties of horticultural species conducted to determine the varietal purity or typicality of plants, weeds, diseases and also supervision of technological requirements for hybrid seed multiplication.

License Agreement - in accordance with this agreement the patent owner transfers the use right for protected variety to another entity or person within the limits of transferred rights specified by the agreement as well as limits of time, territory and way of payment.

Protected Variety – the variety protected by patent for breeding achievements and registered in the State Register of Protected Breeding Achievements of the Kyrgyz Republic.

Originator – a breeder or a breeding institution that has developed the variety and (or) provides its maintenance.

Breeder's Seed – seed of primary (early) stages of seed production of a certain variety produced by a breeder or an originating institution.

Patent – a document protecting the varieties, hybrids of species which is provided for by the Law of the KR “On Legal Protection of Breeding Achievements”

Seed Lot - a certain amount of seed authenticated by a single document.

Register of Species – species that are subject to mandatory registration in the National Catalogue of Varieties and Hybrids Released for Use. This Register includes species which are of strategic importance for the national economy and food security.

Sowing Characteristics - a set of seed qualities that specify their appropriateness for sowing.

Seed Sampler – the official representative of the State Seed Inspectorate who has a right to take samples from seed lots to control their quality.

Seed Reproduction - reproduction of seed in the process of multiplication. The subsequent stages of pre-basic seed multiplication.

Seed – planting material, plants and parts of plants thereof intended for propagation and multiplication.

Variety- a botanical grouping of cultivated plants regarded as an independent unit, which is distinct, uniform and stable.

Varietal Characteristics – indicators for varietal purity of seed.

Varietal Seed - seed of varieties and hybrids included into the National Catalogue of Varieties, and also cultivated at its territory with the permission of the governmental agricultural authority after receiving the appropriate conformity certificate

The List of Species –varietal seeds of species which are subject to mandatory examination for their varietal and sowing characteristics.

Seed Production – activity that includes the set of actions on production, purchase, processing, storage, transportation, sale and use of seed as well as state control, both varietal and seed.

Seed Enterprise – the legal entity that carries out production, cleaning, packaging and sale of seed.

ISTA – International Seed Testing Association. Membership and accreditation of the laboratory given by the Association gives the right to the authorised organisation to issue the international conformity certificate for seed.

OECD – Organisation for Economic Cooperation and Development. Multiplication of varietal seed of different species is done in accordance with the Schemes of this organisation.

Seed of Early Generations – seed, seed crops and seed plantations obtained from the subsequent multiplication of breeder’s seed at early generation seed producing farms and other farms.

The objects in the area of seed production are: variety (clone, line, hybrid, population, mixture of varieties); seeds, seed crops and seed producing crops and plantations.

The subjects in the area of seed production are:

- 1) the author of the variety;
- 2) the originator of the variety
- 3) seed producers and seed traders
- 4) seed enterprise
- 5) seed users, except individuals, producing seed at their household plots, garden-plots, etc with no right to sell them.
- 6) physical and (or) legal entities, rendering the services on identification of varietal and sowing characteristics, on state testing of varieties and hybrids of agricultural species.

## **Article 2. Seed Legislation and its Scope**

- 1 The seed legislation comprises this Law, other laws of the Kyrgyz Republic and associated by-laws.
2. This Law shall be applied to local and imported seed of all species of agricultural, forestry, fruit, berry, ornamental, flower and medicinal herbal plants intended for multiplication and breeding.
3. The provisions of the this Law shall be valid for the whole territory of the Kyrgyz Republic in relation to all producers, consumers of seeds and planting material as well as intermediary procurement, trading and transport agencies, including legal and physical entities, including from foreign states.

## **Article 3. Authorities that Carry out the Activities on Seed**

1. The activities on seed in the Kyrgyz Republic are carried out by governing, coordinating and executive institutions. The governing institutions are the Ministry of Agriculture and Water Resources and its authorised divisions and in the forestry sector - the State Forestry Agency of the Government of the Kyrgyz Republic- (henceforth in the Law "the State agriculture (forestry) management institution").
2. The Coordinating institution is the National (inter-ministerial) Seed Council comprising the representatives of stakeholders and persons – producers, intermediaries and consumers. It defines the policy and strategy of seed production, develops and approves the legislation regulating the interrelations between the subjects.
3. The executive institutions are the entities enjoying the powers to carry out the activities as follows:

- 1) state testing of varieties and hybrids of agricultural species for being released for use at the territory of the Kyrgyz Republic, testing of varieties to legally protect the breeding achievements;
- 2) state control over the sowing and varietal characteristics of seed and planting materials of agricultural and other species;
- 3) issuing of conformity certificates and licenses for seed

#### **Article 4. The Principles of Seed Production and Certification**

1. The seed production in the Kyrgyz Republic is organised in accordance with schemes developed in the Kyrgyz Republic and OECD Schemes. The schemes should ensure the uniformity of definitions for their multiplication at the whole territory of the Kyrgyz Republic and meet the following principles:

- the schemes recognise the categories of seed as pre-basic, basic, C1 and subsequent generations;
- seed of protected varieties are produced and sold only with the permission of patent owner;
- compulsory certification of all seed species, field inspection of hybrid varieties, plots shall be conducted by authorised persons appointed by the manager of the state agriculture (forestry) management institution;
- the number of generations of varietal seed shall be strictly limited by the license agreement between the patent owner and the seed producer;
- multiplication of seed of protected varieties outside the Kyrgyz Republic for their subsequent import is done on contract (agreement) basis following the consultation with the originator of the variety;
- Originators of varieties are obliged to have the security and carry-over stocks of breeder's seed of these varieties in the amount that is specified by the respective by-laws of the state agriculture (forestry) management institution.

2. The varietal seed intended for sowing and sale are subject to compulsory certification based on the List of Species for Certification approved by the state agriculture (forestry) management institution.

Inspection of seed, post control, seed sampling and analysis methodologies are conducted in accordance with the Rules developed in the Kyrgyz Republic and also the OECD and ISTA Rules.

Conformity certificate is issued for varietal seed that meet the requirements of the national standards, while seed not meeting these requirements are provided with the analysis results.

Seed for export are accompanied with the international conformity certificate.

The seed inspection and certification agency shall have the exclusive right to issue the conformity certificates.

The state seed production services, state seed inspectorates (forestry and cotton seed stations) and accredited laboratories upon the request of the state agriculture (forestry) management institution are entitled to issue a document certifying varietal and sowing characteristics.

Varietal seed not included in the List of Species mandatory for examination, are multiplied and sold in accordance with the quality specified at the package and accompanying documents.

3. The State Commission on Variety and Hybrids Testing (hence forth the State Commission), based on the field and laboratory tests, identifies the value of varieties and hybrids for cultivation and use in various agro-climatic zones of the Kyrgyz Republic and conformity criteria of protectability of a new variety for distinctness, uniformity and stability. The State Commission can use for testing the data from the originator of the variety or seed owner.
4. The state agriculture (forestry) management institution established the List of Species that are subject to mandatory field testing to be released for use at the territory of the Kyrgyz Republic.
5. Varieties and hybrids released for use at the territory of the Kyrgyz Republic should be included in the National Catalogue.

For this the variety should meet the following requirements:

- a) the corresponding to the requirements description of the variety, its origin and the breeding methods should be provided;
- b) appropriate name should be given;
- c) sample of the variety should be available in the variety testing agency.

The National Catalogue is published in mass media at least once a year. If the conditions for recording (registration) of the variety in a state variety testing agency are no longer fulfilled, it can make a proposal to withdraw the variety from the Catalogue.

After withdrawal varieties or hybrids of plants from the National Catalogue, the seed lots of these varieties can be in trade during the next two years.

#### **Article 5. Labelling, Packaging and Storage of Varietal Seed**

1. The seed for sale should be packed in appropriate package and are subjected to labelling. The label with the full and true information of the seed quality shall be affixed to any container of seed.
2. Seed sampler conducts the control checks of trustworthiness of information specified by the label, the type and category of seed.

Packages of seed which have been chemically or biologically treated shall have the appropriate warning note, and the label or accompanying document shall have the instruction for safe handling and any information on types and possible consequences of the effect of chemicals on the health of people and animals.

2. Physical and legal entities entitled to the production and sale of seed (planting material) are obliged within several years or a year to retain (maintain) unchanged the varietal and sowing characteristics of seed specified in the conformity certificate, and also the original name of the variety.

Storage of seed shall be done in compliance with the appropriate by-laws adopted by the state agriculture (forestry) management institution.

The originators of varieties are obliged to have constantly available stock of breeder's seed of these varieties in the amount prescribed by the appropriate technical requirements of the state agriculture (forestry) management institution.

#### **Article 6. The right to seed production and sale**

1. All physical and legal entities have the right to produce and sale seed if they have the permission of the owner of seed taking into account the interests of the patent owner for the protected variety and if they are registered by the seed inspection agency as seed producer and (or) trader.

2. Seed producers shall be entitled to:

- Independently define the volumes of seed production and sell them at negotiated prices to the governmental and other clients as well as at the seed market;
- obtain the permission (contract) from the originator of the variety or seed owner to produce and sale varietal seed and have the licence agreement for protected varieties that is signed with the patent owner or its assignee.
- requesting seed inspection and certification agency, state seed inspections, cotton and forestry seed stations to conduct seed tests and issue conformity certificates and seed quality documents within the time allowing provision of operational information.

When disagree with the decision of the inspection agency to contest the decision in accordance with the legislation of the Kyrgyz Republic.

3. Seed producers are obliged:

- strictly observe seed multiplication schemes for varieties included in the National Catalogue and obtain the conformity certificate for grown seed;
- keep record of the amount, origin of seed sold or used on farm and their varietal and sowing characteristics;

- ensure storing of record materials in agriculture for three years and in forestry - for five years;
- timely submit a request to the state agriculture (forestry) management institution to conduct the inspection of seed crops and field inspection of hybrid plots;
- check and survey seed crops and plantations and control quarantine objects in accordance with the Law on plant quarantine in the Kyrgyz Republic;
- ensure free access of personnel of the state agriculture (forestry) management institution and its respective authorised structures to the fields with seed crops and hybrid crops and plantations, to all seed lots submitted for sowing characteristics' analysis, to seed storages and book-keeping documents in order to enable them to fulfil their duties.

#### **Article 7. Registers of seed producers, traders, importers and exporters**

1. Any physical and legal entity willing to produce and (or) sell is obliged to apply in the prescribed manner for registration as a seed producer and trader to the seed inspection and certification agency.
2. Seed enterprises rendering the services on seed cleaning, packing, and sale also should obtain the registration in the seed inspection agency.
3. The seed inspection and certification institution shall independently maintain the Register of seed producers and the Register of seed trade in the form approved by the state agriculture (forestry) management institution.
4. The Register is published by the seed inspection agency at least once in six months.
5. The wholesale and retail sellers who are included in the Register of Seed Trade are authorised to sell and offer for sale officially labelled seed in accordance with the procedures provided for by this Law.

#### **Article 8. Seed Stocks, their Establishment and Use**

1. The State Seed Stock and Regional Seed Stocks shall be established in order to ensure seed supply to other regions with no seed production or with limited capacities for seed production as well as to foreign countries in accordance with the international agreements and in order to provide aid to regions suffered from natural disasters.
2. To the State and Regional Seed Stocks should be procured the seed of varieties listed in the National Catalogue of Varieties Released for Use or the varieties that have the permission for this from the state agriculture (forestry) management institution.
3. The volumes of State Seed Stock by groups of species procured as the national resource with their producers specified are defined by the Government of the Kyrgyz Republic upon the recommendation of the state agriculture (forestry) management institution and are established

through the purchase of seed on a contract basis from seed producers of the Kyrgyz Republic and importers.

4. The volumes of Security and Reserve Seed Stocks as the national resource for the case of loss of crops caused by unfavourable climatic conditions and other natural disasters are defined by the state agriculture (forestry) management institution.
5. The volumes of Regional Seed Stocks by groups of species are defined by the local executive institutions and are established through the purchasing of seed from seed producers on a contract basis within and outside of administrative boundaries as well as from the importers.
6. The State Seed Stock is administered by the state agriculture (forestry) management institution. The way of use of the Regional Seed Stocks is defined by the local executive institutions.

#### **Article 9. Introduction of Seed into Trade**

1. The introduction of seed in trade is the guarantee of their conformity by the appearance and variety to the varietal and sowing characteristics, requirements of this Law for which the conformity certificate has been issued.
2. Seed lots of reproduced seed of one (the same) variety and generation when being introduced into trade can be blended on condition that the new seed lot is homogeneous.
3. In exceptional cases when there is a threat to the national food security in order to restore the volume of Security Stock the state agriculture (forestry) management institution is entitled to permit to commercialise the seed mixtures of different varieties or categories.
4. The seed of varieties included in the List of Species, but which have not been tested (have not passed through) the state variety testing, can be used:
  - for breeding and experimental work;
  - for the production of seed to be exported;
  - upon the request of the breeder to establish the seed stock for testing of breeding achievements
  - for exhibiting;
  - for use at household plots
5. It is prohibited to introduce into seed:
  - of varieties that pose a threat to the country environment and population health.
  - of varieties included in the List of Species specified in paragraph 4 of Article 4 but have not passed the state variety testing (have not been tested)
  - if labelling and packaging are made with infringing the requirements of the documents on



standardisation;

- having no quarantine certificate;
- having no document certifying valid varietal and sowing characteristics or with expired certificate;
- of protected varieties, hybrids with no licences agreement concluded with the patent owner
- that have been chemically or biologically treated if it is transported in bulk.

6. Genetically modified varieties are not permitted for use until they are tested and examined in appropriate ecosystems.

Growing of genetically modified varieties of plants is done under the supervision of the authorised agencies at that these authorised agencies assess their impact upon the environment and human health.

The authorised agencies after making the examination of this variety should report on the results to the state agriculture (forestry) management institution and to the applicant.

In case of the positive results of the examination the variety is sent for the official variety testing to be released for use.

#### **Article 10. Foreign Seed Trade**

1. The decision on the volume of seed to be procured to the State Import Stock is made by the Government of the Kyrgyz Republic and is implemented through the centralised state customers.

Other persons and entities are entitled to purchase seed abroad independently at their own expenses in accordance with the established procedure.

2. It is prohibited to import to the Kyrgyz Republic the seed:

- of varieties included in the List of Species specified in paragraph 4 of Article 4 but have not passed the state variety testing (have not been tested)
- having no document certifying varietal and sowing characteristics;
- having no import quarantine permit for import and transit, as well as phytosanitary certificate or a certificate issued by the exporting country;
- that have been chemically or biologically treated if it is transported in bulk.

3. It is prohibited to send seed by mail from foreign countries to citizens of the Kyrgyz Republic as well as transport as luggage without a quarantine permit.

4. The exported seed shall meet the terms provided by contracts and international agreements and

no DS listed as objects prohibited for export according to the prescribed order.

5. The international certificate (ISTA) as well as the seed quality documents issued by the seed certification agencies of exporting countries which have the respective agreement with the seed inspection agency on conditions that OECD seed varietal certificates are available with subsequent re-registration for national certificates.
6. The Government of the Kyrgyz Republic shall define custom-houses and frontier quarantine check-points empowered to control import of seed.

#### **Article 11. The State Control over Seed Quality**

1. The state control over the seed quality is carried out by the seed inspection agency which is empowered to:
  - perform unimpeded varietal and seed control of seed producers in procurement and trading organisations regardless institutional dependency and ownership;
  - control and conduct inspection of seed crops;
  - take samples and analyse seed samples in order to identify their sowing characteristics;
  - request the necessary data and documents for seed crops and plantations, for the quantity and quality of seed from seed producers, procurement and trading agencies;
  - not to issue the documents on seed quality of varieties which have been procured and multiplied with law infringement;
  - reject seed crops and plantations in case of infringement of production technology;
  - detain seed lots alongside with vehicles, containers and packages for inspection and arbitration control;
  - issue a written note to any seed producer and trader prescribing to eliminate the deficiencies found in seed and its submission for re-check within the period set by the authorised inspector. In case if this prescription has not been fulfilled the authorised inspector has the right to take a decision to use this seed for food or fodder, or to destroy the seed if it has been treated with hazardous chemicals.
  - not to issue seed quality documents for seed of protected varieties if there is no license agreement available with the patent owner of protected variety.
2. The state agriculture (forestry) management institution and its authorised subordinates have the right to exclude from the List of Seed Producers (or Traders), to withdraw the permit for seed production and trade from any physical or legal entity that infringes the seed producing discipline on repeated occasions or sells seed with diverging from the national standards.
3. When excluding from the List of Seed Producers (or Traders), the state agriculture (forestry)

management institution and its authorised subordinates arrange special publication to inform the customers through the mass media.

4. The State Service for Variety and Seed Control operates (functions) based on the regulations approved by the Government of the Kyrgyz Republic. The operation of the accredited laboratories is regulated by the state agriculture (forestry) management institution.
5. The head of the state agriculture (forestry) management institution is entitled in coordination with the Government of the Kyrgyz Republic to establish the additional agencies (institutions) to enforce this Law.

#### **Article 12. Liability for Violation of this Law**

1. Any physical and legal entity engaged in seed production and sale, state agencies responsible for seed quality control as well as the authorised agencies responsible for seed safety which infringe the provisions of this Law, and also which wilfully or recklessly provide any false or misleading information on seed; alter, deface or withdraw any certificate, label, or other official record without lawful authority, commit intentional falsification of seed samples are liable according to the existing legislation of the Kyrgyz Republic.
2. Damage (loss) incurred by the customer resulting from purchase of poor quality or counterfeit seed is reimbursed on the cost of violator. The customer shall be entitled to demand:
  - replacement of the seed lot with a seed lot of similar variety;
  - annulment of the contract and indemnification for losses in the court.
3. The producer and supplier shall not be responsible for deterioration of varietal and sowing characteristics caused by independent circumstances.
4. The period of limitation to submit a claim is three years.

#### **Article 13. On Enforcement of this Law**

1. This Law shall be enforced after three months since its official publication.
2. The Government of the Kyrgyz Republic shall bring its resolutions in conformity with this Law.

The President of the Kyrgyz Republic ~

K. Bakiev

January 8, 2007