

PLANT IMPROVEMENT ACT, 1976  
(ACT 53 OF 1976)

REGULATIONS RELATING TO ESTABLISHMENTS, VARIETIES, PLANTS AND PROPAGATING  
MATERIAL

The Minister of Agriculture and Fisheries has made the following regulations under section 34, read with sections 4, 7, 9, 12, 13, 16, 18, 20, 21, 22, 25, 26, 30 and 32, of the Plant Improvement Act, 1976 (Act No. 53 of 1976): -

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## DEFINITIONS

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

"agricultural remedy" means an agricultural registered in terms of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947);

"coated seed" means seed which has been coated with some or other substance in order to facilitate planting or establishment;  
*[Definition inserted by R. 1590 of 27 August 1993]*

"container" -

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

"inert matter", in relation to seed, means all material excluding other seed and pure seed which is present therein;  
*[Definition inserted by R. 1621 of 22 July 1983]*

"insect" means any invertebrate member of the animal kingdom, irrespective of the stage of its development;

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

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

"mixture", in relation to seed, means a lot consisting of seed of various kinds and varieties of plants which, with a view to its usefulness for agricultural purposes, is obtained by mixing such propagating material in a particular proportion, but does not include a lawn mixture;

"other matter" -

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

*[Definition substituted by R. 1590 of 27 August 1993]*

"other seed" -

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

"pelleted seed" . . . . .

*[Definition deleted by R. 1590 of 27 August 1993]*

"port of entry" means a place through which plants and propagating material may be imported into the Republic in terms of section 26 of the Act;

"prohibited weed seed" means seed of the kinds of plants indicated in Table 6 hereto;

"pure pellets" . . . . .

*[Definition deleted by R. 1590 of 27 August 1993]*

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

*[Definition inserted by R. 1621 of 22 July 1983]*

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

*[Definition inserted by R. 1590 of 27 August 1993]*

"seed" means seed which is propagating material;

"the Act" means the Plant Improvement Act, 1976 (Act 53 of 1976);

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

*[Definition inserted by R. 1287 of 14 June 1985]*

"true to variety", in relation to -

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

"visually free", with regard to the occurrence of an insect or pathogen on a plant, means that -

- (i) the registrar is unable to visually observe the occurrence of an insect or a pathogen on a plant unless he uses a microscope or magnifying glass; or
- (ii) the registrar has, without the use of a microscope or magnifying glass, visually observed the characteristic symptoms that are caused by an insect or a pathogen on a plant, but the testing, examination or analysis of that plant in a laboratory has not revealed the occurrence of such insect or pathogen on that plant; and

*[Definition inserted by R. 1287 of 14 June 1985 and substituted by R. 1489 of 11 July 1986]*

"weed seed" means seed of a kind of plant that is not used for cultivation in the Republic.

*[Definition inserted by R. 1287 of 14 June 1985]*

*CHAPTER I*  
REGISTRATION OF ESTABLISHMENTS

*Application for registration*

- 2.(1) An application for the registration of any premises in respect of a business shall be lodged on the form, obtainable from the Registrar for this purpose.  
[Subregulation (1) substituted by R. 1638 of 12 July 1991]
- (2) A separate application shall be lodged in respect of each separate premises and each such application shall -
- (a) be accompanied by a locality sketch which clearly indicates where the premises concerned is situated; and
  - (b) be accompanied by the application fee specified in item 2(a) of Table 1.  
[Paragraph (b) substituted by R. 1976 of 22 December 1995]

*Renewal of registration*

- 3.(1) An application for the renewal of a registration shall be lodged on the form, obtainable from the Registrar for this purpose.  
[Subregulation (1) substituted by R. 1638 of 12 July 1991]
- (2) Such a form shall be accompanied by the renewal fee specified in item 2(b) of Table 1.  
[Subregulation (2) substituted by R. 1976 of 22 December 1995]
- (3) . . . . .  
[Subregulation (3) substituted R. 1621 of 22 July 1983 and deleted by R. 1638 of 12 July 1991]

*Return of certificate of registration*

4. The certificate of registration or fresh certificate of registration which was issued in terms of section 7(3) or 9(4) of the Act, as the case may be, shall be returned to the registrar within 30 days of the date on which -  
[The words preceding paragraph (a) substituted by R. 1621 of 22 July 1983]
- (a) a notice regarding the termination of the registration of the establishment concerned was issued in terms of section 11 of the Act; or
  - (b) the registration of the establishment concerned has lapsed in terms of section 12(2) of the Act.

*CHAPTER II*  
REQUIREMENTS RELATING TO ESTABLISHMENTS

*Requirements for nurseries*

- 5.(1) A premises on which the business of a nursery is conducted may be registered as an establishment and the registration thereof be renewed if -
- (a) the premises concerned is kept free from volunteer plants and effective weed control is practised;
  - (b) plants are cultivated or kept in such a manner at the premises concerned that -  
[Words preceding subparagraph (i) substituted by R. 1287 of 14 June 1985]

- (i) they are protected against damage or contamination by plant diseases, insects and rodents;
  - (ii) different kinds and varieties of plants are kept in separate groups so that access to each group can readily be obtained;
  - (iii) different kinds and varieties of plants are identified by means of suitable and clearly legible name boards or labels; and  
*[Subparagraph (iii) substituted by R. 1287 of 14 June 1985 and R. 1389 of 26 June 1987]*
  - (iv) in the case of plants and propagating material which are certified, the requirements relating to the keeping and storage thereof as determined in the scheme concerned, are complied with; and
- (c) the place where plants are sold on the premises concerned -
- (i) has efficient lighting so that any marks, printing or writing on containers of plants or on labels attached to plants or containers may readily be read; and
  - (ii) is kept in an orderly, tidy and clean condition at all times;
- (d) plants that are kept for sale or, in the case where such plants are packed in bundles, each separate bundle, is provided with a label on which the information referred to in subregulations (1) and (2) of regulation 35 is indicated.  
*[Paragraph (d) inserted by R. 1287 of 14 June 1985 and R. 1389 of 26 June 1987]*

(2) . . . . .  
*[Paragraph (2) inserted by R. 1287 of 14 June 1985 and deleted by R. 1389 of 26 June 1987]*

(3) Notwithstanding the provisions of subregulation (1), a premises referred to in that subregulation where vegetative material is cultivated for sale or is sold, or is used for the cultivation of plants of the kinds specified in subregulations (2), (3) and (4) of regulation 31, shall be registered as an establishment only if such vegetative material is obtained from plants that were examined by the registrar during the active growth thereof.

*Requirements for businesses where propagating material is cleansed*

6. A premises on which the business of the cleansing of propagating material for sale is conducted, may be registered as an establishment and the registration thereof be renewed if -

- (a) the place where seed is stored and cleansed on the premises concerned -
  - (i) has a solid floor;
  - (ii) has efficient lighting so that any marks, printing or writing on containers of seed or on labels attached to such containers may readily be read;
  - (iii) has efficient ventilation so that excessive humidity and high temperatures which may detrimentally affect seed are prevented; and
  - (iv) is kept in an orderly, tidy and clean condition at all times;
- (b) the available facilities at the premises concerned are adequate and sufficient to ensure the satisfactory cleansing of kinds and varieties of seed which are normally handled there;
- (c) seed is handled and stored at the premises concerned in such a manner that -
  - (i) it is protected against damage by insects and rodents;

- (ii) cleansed seed is kept separate from uncleansed seed, screenings and from anything else by storing it in separate stores, or by dividing it by means of solid partitions, or by means of spaces at least one metre wide;
  - (iii) access to each lot of seed can readily be obtained; and
  - (iv) admixing of seed of different kinds of plants is prevented, except if it is done in order to make up a mixture or to add a pollinator;
- (d) there are marked, printed or written on the containers of uncleansed seed at such establishment, or on labels attached to the containers concerned –
- (i) the words "uncleansed seed" or "onskoongemaakte saad";
  - (ii) the kind and variety of the seed concerned; and
  - (iii) the name and address of the person from whom the seed concerned was received; and
- (e) the applicable particulars which are required in terms of these regulations, are marked, printed or written on containers of cleansed seed, or on labels attached to the containers concerned.

*Requirements for businesses where propagating material is prepacked*

7. A premises on which the business of the prepacking of propagating material for sale is conducted, may be registered as an establishment and the registration thereof be renewed if -

- (a) the place where propagating material is stored and prepacked on the premises concerned -
  - (i) has a solid floor;
  - (ii) has efficient lighting so that any marks, printing or writing on containers of propagating material or on labels attached to such propagating material or containers may readily be read;
  - (iii) has efficient ventilation so that excessive humidity and high temperatures which may detrimentally affect the propagating material are prevented; and
  - (iv) is kept in an orderly, tidy and clean condition at all times;
- (b) the available facilities at the premises concerned are adequate and efficient to ensure the satisfactory prepacking of the kinds and varieties of propagating material which are normally handled there;
- (c) propagating material is handled and stored at the premises concerned in such a manner that -
  - (i) it is protected against damage by insects and rodents;
  - (ii) it is kept separate from anything else by storing it in different stores, or by dividing it by means of solid partitions, or by means of spaces at least one metre wide;
  - (iii) access to each lot of propagating material can readily be obtained; and

- (iv) admixing of propagating material of different kinds of plants is prevented, except if it is done in order to make up a mixture or, in the case of seed, to add a pollinator; and
- (d) the applicable particulars which are required in terms of these regulations, are marked, printed or written on containers of propagating material, or on labels attached to the propagating material or containers concerned.

*Requirements for businesses where propagating material is sold*

8. A premises on which the business of the sale of propagating material is conducted, may be registered as an establishment and the registration thereof be renewed if -

- (a) the place where propagating material is stored and sold on the premises concerned -
  - (i) has a solid floor;
  - (ii) has efficient lighting so that any marks, printing or writing on containers of propagating material or on labels attached to such containers may readily be read;
  - (iii) has efficient ventilation so that excessive humidity and high temperatures which may detrimentally affect propagating material are prevented; and
  - (iv) is kept in an orderly, tidy and clean condition at all times;
- (b) propagating material is handled and stored at the premises concerned in such a manner that -
  - (i) it is protected against damage by insects and rodents;
  - (ii) it is kept separate from anything else by storing it in separate stores, or by dividing it by means of solid partitions, or by means of spaces at least one metre wide;
  - (iii) access to each lot of propagating material can readily be obtained; and
  - (iv) admixing of propagating material of different kinds is prevented, except if it is done in order to make up a mixture or, in the case of seed, to add a pollinator; and
- (c) the applicable particulars which are required in terms of these regulations, are marked, printed or written on containers of propagating material, or on labels attached to the propagating material or containers concerned.

*Requirements for test laboratories*

8A.(1) Any premises on which the business of a test laboratory is conducted, may be registered as an establishment and the registration thereof be renewed if -

- (a) the place where samples of plants and propagating material are stored, tested, examined or analysed on the premises concerned -
  - (i) has a solid floor;

- (ii) has efficient lighting so that any marks, printing or writing on containers of samples or on labels attached to such samples may readily be read, and that observations in connection with the tests, examinations or analyses concerned may readily be made; and
  - (iii) is kept in an orderly, tidy and clean condition at all times; and
- (b) the available facilities and equipment at the premises concerned are adequate and sufficient to ensure that the tests, examinations and analyses referred to in subregulation (2), of samples of the kinds of plants and propagating material referred to in that subregulation can be performed properly.
- (2) The testing, examination or analysis of samples of plants and propagating material at a test laboratory which is registered as an establishment shall -
- (a) be restricted to samples of those kinds or plants and propagating material, and to those kinds of examinations, tests and analyses which are specified in the certificate of registration mentioned in respect thereof; and
  - (b) be performed in accordance with such methods as the registrar may determine.
- (3) The registrar may require the owner or occupier of a test laboratory for plants and propagating material which is registered as an establishment to carry out referee tests with samples of plants and propagating material with such instructions as the registrar may issue.
- (4) The owner or occupier of a test laboratory for plants and propagating material which is registered as an establishment shall furnish a report which complies with the requirements referred to in regulation 12A(1), in connection with the testing, examination or analysis of each sample to the person to whom that sample has been submitted.
- (5) The owner or occupier of a test laboratory for plants and propagating material which is registered as an establishment shall keep at that establishment a quantity of each sample which was tested, examined or analysed there, and which is sufficient in order to repeat that test, examination or analysis -
- (a) in the case of plants, tubers or bulbs for a period of at least three months after the test, examination or analysis concerned has been completed, and stored under conditions in which the samples concerned will not be destroyed or affected by any organism; and
  - (b) in the case of seed for a period of at least 12 months after the test, examination or analysis concerned has been completed, and stored under conditions in which the seed will retain its potential to germinate.
- (6) The owner or occupier of a test laboratory for seed that has been registered as an establishment, shall -
- (i) employ a seed analyst who is in possession of the necessary qualifications, as determined by the Registrar, as responsible officer of the test laboratory; and
  - (ii) immediately notify the Registrar as soon as the services of such analyst is no longer available.

*[Subregulation (6) inserted by R. 1590 of 27 August 1993]*

*[Regulation 8A inserted by R. 1621 of 22 July 1983 and substituted by R. 2119 of 24 July 1992]*

**CHAPTER III**  
**RECORDS TO BE KEPT AT ESTABLISHMENTS**

*Records at nurseries*

9. The owner or occupier of an establishment at which the business of a nursery is conducted shall, in respect of each lot of plants cultivated there for sale, keep complete records of -

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

*[Regulation 9 amended and substituted by R. 1287 of 14 June 1985; R. 1389 of 26 June 1987; and R. 1590 of 27 August 1993]*

*Records at businesses where propagating material is cleansed*

10. The owner or occupier of an establishment at which the business of the cleansing of propagating material for sale is conducted shall, in respect of all seed handled there, keep complete records of -

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

*Records at businesses where propagating material is repacked*

11. The owner or occupier of an establishment at which the business of the repacking of propagating material for sale is conducted shall, in respect of each lot of propagating material handled there, keep complete records of -

- (a) the date on which the lot concerned was received;
- (b) the kind and variety of the propagating material in the lot concerned: Provided that, in the case of a mixture, the names of the kinds and varieties presented therein, as well as the percentage contents of each, shall be recorded;

- (c) the name and address of the person from whom the lot concerned was received;
- (d) the total mass or number of units of the propagating material in the lot concerned;
- (e) the lot number of the lot concerned;
- (f) the number of the certificate issued in respect of the propagating material in the lot concerned if that propagating material was certified; and
- (g) the date on which prepacking of the lot concerned was completed.

*Records at businesses where propagating material is sold*

12. The owner or occupier of an establishment at which the business of the selling of propagating material is conducted shall, in respect of each lot of propagating material, excluding prepacked propagating material, which is handled there, keep complete records of -

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

*Records at test laboratories*

12A.(1) The owner or occupier of an establishment at which the business of a test laboratory is conducted, shall in respect of each sample of plant and propagating material handled there, compile a report which contains at least the following particulars:

- (a) the date on which the sample concerned was received;
- (b) the kind of plant or propagating material of the sample concerned as indicated by the person by whom it was submitted;
- (c) the name and address of the person by whom the sample concerned was submitted for testing, examination or analysis;
- (d) the reference numbers respectively allocated to the sample concerned by the person referred to in paragraph (c) and the owner or occupier of the establishment concerned;
- (e) the respective dates on which the testing, examination or analysis of the sample has commenced and was completed;

- (f) the result of the testing, examination or analysis of the sample concerned, in which the following applicable particulars shall be indicated:
- (i) in the case of plants, tubers or bulbs -
    - (A) the method used to carry out the test, examination or analysis on the sample concerned;
    - (B) the part of the plant, tuber or bulb which was tested, examined or analysed;
    - (C) the type of organism tested, examined or analysed for;
    - (D) kind of contamination found;
    - (E) any remarks which the person who has performed the test, examination or analysis concerned, wishes to make in connection with the result concerned; and
    - (F) the name of the person who carried out the tests; and
  - (ii) in the case of seed -
    - (A) the physical purity, expressed as a percentage by mass and recorded in the manner specified in Part E of the form set out in Schedule H;
    - (B) the germination or viability expressed as percentage by number or where applicable, expressed as the number of normal seedlings per weight (kg), and recorded in the manner specified in Part F(1) or F(2), where applicable, of the form set out in Schedule H;  
[Subparagraph (B) substituted by R. 174 of 10 February 1995 and R. 770 of 4 August 2006]
    - (C) the number of days in which germination was achieved;
    - (D) moisture content, expressed as a percentage by mass; and
    - (E) any remarks which the person who has performed the test, examination or analysis concerned, wishes to make in connection with the result concerned.
- (2) Such owner or occupier shall keep a copy of each such report.  
[Regulation 12A inserted by R. 1621 of 22 July 1983 and substituted by R. 2119 of 24 July 1992]

#### *Keeping of combined records*

13. Notwithstanding the provisions of regulations 10, 11 and 12, the records which are to be kept in terms of those regulations in respect of a lot of propagating material may, in so far as the nature thereof permits, be kept jointly if that lot is handled by separate businesses situated on the same premises.

#### *Preservation of records*

14. Records kept in terms of these regulations shall be preserved at the premises of the establishment concerned, or such other place as may on application be approved by the registrar, until at least three years after the date on which the lot concerned was removed, delivered, repacked or sold out, or the sample concerned was tested, examined or analysed, as the case may be.

[Regulation 14 substituted by R. 1621 of 22 July 1983]

*Submission of returns*

15. The owner or occupier of an establishment shall, within 30 days of the date on which the registrar has in writing requested him to do so, submit a written return to the registrar in which is indicated -

- (a) the required particulars regarding the contents of any records which he keeps in terms of these regulations; and
- (b) the quantity or mass of plants or propagating material, as the case may be, of specified kinds and varieties which he has in stock or which have been sold during a specific period.

## CHAPTER IV RECOGNITION OF VARIETIES

*Application for recognition of varieties*

16.(1) An application for the recognition of a variety of a kind of plant specified in column 1 of Table 2, for entry in the varietal list shall -

- (a) be lodged on the form, obtainable from the Registrar for this purpose; and  
*[Paragraph (a) substituted by R. 1638 of 12 July 1991]*
- (b) be accompanied by the application fee specified in item 3(a) of Table 1.  
*[Paragraph (b) substituted by R. 1976 of 22 December 1995]*

(2) If the registrar considers a denomination in respect of the variety concerned proposed in terms of section 17(3) of the Act unsuitable, a translation thereof or some other suitable denomination shall be submitted by the applicant concerned within two months of the date on which the registrar has directed him in writing to do so.

*Consideration and examination of applications*

17.(1) The examination fee payable in terms of section 18(3) of the Act for the purposes of tests and trials to be undertaken by the registrar with a variety of a kind of plant specified in column 1 of Table 2 shall be as specified in item 3(b) of Table 1: Provided that if an application for the grant of a plant breeder's right in terms of the Plant Breeders' Rights Act, 1976 (Act 15 of 1976), and an application referred to in regulation 16 with regard to the same variety has been submitted simultaneously, and the appropriate fees in terms of the said Act have been paid, such examination fee shall be R1.  
*[Subregulation (1) substituted by R. 1522 of 12 July 1985 and amended by R. 1976 of 22 December 1995]*

(2) The costs which are payable in terms of section 18(4) of the Act shall be calculated at the rate of exchange between the monetary units of the Republic and the country concerned on the date on which payment has been made to the appropriate authority concerned.

(3) The plants and propagating material to be furnished in terms of section 18(3) of the Act for the purposes of tests and trials with a variety of a kind of plant specified in column 1 of Table 2 shall -

- (a) . . . . .  
*[Paragraph (a) deleted by R. 2496 of 9 December 1988]*
- (b) be accompanied by a declaration in the form set out in Schedule D;
- (c) be furnished for three consecutive years following the year in which tests and trials with the variety concerned has commenced, unless -
  - (i) the registrar directs otherwise; or

- (ii) the variety concerned is recognised in terms of section 20 of the Act before expiry of the said period; and
- (c) during such consecutive years be of successive generations or combinations of the variety concerned.

*[Subregulation (3) amended by R. 2496 of 9 December 1988]*

*[Regulation 17 substituted by R. 1621 of 22 July 1983]*

#### *Commencing date for tests and trials*

18. If an application for the recognition of a variety of a particular kind of plant has been lodged prior to the commencement of a particular recognised growing season for that variety, the tests and trials with such variety in terms of section 18 of the Act shall commence during that growing season only if the applicable examination fee, plant and propagating material referred to in regulation 17 have respectively been paid and furnished on or before the date determined by the registrar for the kind of plant concerned.

*[Regulation 18 substituted by R. 1621 of 22 July 1983 and amended by R. 2496 of 9 December 1988]*

#### *Recognition of varieties*

19.(1) The period required in terms of section 20(2)(c)(iii) of the Act for the recognition of a variety of a kind of plant indicated in column 1 of Table 2, which is also being evaluated in terms of section 22 of the Act shall be as specified in column 3 of the said table opposite the name of the kind concerned.

*[Subregulation (1) substituted by R. 1621 of 22 July 1983 and R. 1522 of 12 July 1985]*

(2) The particulars specified in paragraph 1 of Table 3 in regard to the recognition of a variety shall be published in terms of section 20(3) of the Act.

#### *Varieties included in the varietal list*

19A. The applicable particulars of paragraph 3 of Table 3 of the Regulations in regard to the varieties which are included in the varietal list, shall be published in terms of section 15(6) of the Act.

*[Regulasie 19A inserted by R. 1638 of 12 July 1991]*

#### *Alterations in, supplementation to or deletions from varietal list*

20. The appropriate particulars specified in paragraph 2 of Table 3 in regard to alterations in, supplementations to or deletions from the varietal list shall be published in terms of section 21(3) of the Act.

#### *Application for the alteration or supplementation of the denomination of a variety*

20A. Subject to the provisions of regulation 20, an application for the alteration or supplementation of the denomination approved for a variety shall be accompanied by the fee specified in paragraph 3(c) of Table 1 of the Regulations.

*[Regulation 20A inserted by R. 1011 of 1 August 1997]*

## **CHAPTER V**

### **REQUIREMENTS RELATING TO SEED**

#### *Maximum mass of lots of seed*

21. The mass of a lot of seed of a kind of plant indicated in column 1 of Table 4 may not exceed the mass specified in column 13 of the said Table opposite the name of the kind concerned.

*[Regulation 21 amended by R. 1590 of 27 August 1993; R. 174 of 10 February 1995 and R. 770 of 4 August 2006]*

*Requirements for seed which is not certified*

22. Subject to the provisions of regulation 24, seed of a kind of plant specified in column 1 of Table 4, which has not been certified or prepacked, may be sold without an authority referred to in section 13 of the Act if -

*[Words preceeding paragraph (a) substituted by R. 86 of 22 January 1988]*

- (a) the percentages of other matter, other seed and weed seed in such seed do not exceed the percentages specified in columns 3, 4 and 5 of the said Table opposite the name of the kind concerned, respectively;  
*[Paragraph (a) amended by R. 1590 of 27 August 1993 and substituted by R. 174 of 10 February 1995]*
- (b) the percentage germination or viability; or number of normal seedlings per weight (kg), where applicable, of such seed is equal to or more than that specified in column 6, 7 or 8, where applicable, of the said Table opposite the name of the kind concerned;  
*[Paragraph (b) amended by R. 1590 of 27 August 1993, substituted by R. 174 of 10 February 1995 and R. 770 of 4 August 2006]*
- (c) such seed is true to variety;
- (d) no prohibited weed seed is present in such seed; and
- (e) such seed is homogenous.

*Requirements for seed mixtures*

23. Seed which is a mixture of seed of different kinds of plants or of varieties of such kinds, which are not certified, may be sold without an authority referred to in section 13 of the Act if -

- (a) in the case of a mixture of seed of the kinds of plants specified in column 1 of Table 4 of which the contents of seed of *Chloris gayana* Kunth, *Digitaria smutsii* Stent, *Paspalum dilatatum* Poir and *Setaria sphacelata* (Schumach) Stapf. & C. E. Hubb separately or jointly are 70 per cent or more, the percentages of other matter and other seed in such mixture do not exceed 40 per cent and 0,3 per cent, respectively;  
*[Paragraph (a) amended by R. 2496 of 9 December 1988, R. 1590 of 27 August 1993 and R. 1207 of 1 December 2000]*
- (b) in the case of a mixture other than that referred to in paragraph (a), the percentages of other matter and other seed in such mixture do not exceed 10 per cent and 0,3 per cent, respectively;
- (c) the percentage germination or viability, where applicable, of each of the kinds or varieties of seed present in such mixture is equal to or more than that specified in column 6 or 7 of the said Table opposite the name of the kind concerned;  
*[Paragraph (c) amended by R. 1590 of 27 August 1993 and substituted by R. 174 of 10 February 1995]*
- (d) the seed of each of the varieties present in such mixture is true to variety;
- (e) no prohibited weed seed is present in such mixture; and
- (f) such mixture is homogenous.

*Certification of propagating material of certain varieties required*

24. Propagating material of a kind of plant specified in column 1 of Table 8 that is of variety specified in column 2 of the said table opposite thereto, may as from the date specified in column 3 of the said table opposite thereto, be sold without an authority referred to in section 13 of the Act only if that propagating material is certified in terms of a Certification Scheme established under section 23 of the Act.

*[Regulation 24 repealed by R. 1287 of 14 June 1985, inserted by R. 86 of 22 January 1988 and substituted by R. 866 of 3 July 1998]*

*Requirements for prepacked seed*

25. Subject to the provisions of regulation 24, prepacked seed of a kind of plant specified in column 1 of Table 4, may be sold without an authority referred to in section 13 of the Act, if -

*[Words preceeding paragraph (a) substituted by R. 86 of 22 January 1988]*

- (a) the percentage of other matter, other seed and weed seed in such seed -
    - (i) in the case of coated and uncoated seed, do not exceed the percentages specified in columns 3, 4 and 5 of the said Table opposite the name of the kind concerned, respectively;
    - (ii) in the case of a mixture, are as indicated in regulation 23(a) or (b), as the case may be;
- [Paragraph (a) amended by R. 1590 of 27 August 1993 and substituted by R. 174 of 10 February 1995]*
- (b) the percentage germination or viability; or number of normal seedlings per weight (kg), where applicable, of such seed, or in the case of a mixture, of each of the kinds or varieties present therein, is equal to or more than that specified in column 6, 7 or 8, where applicable, of the said Table opposite the name of the kind concerned;
- [Paragraph (b) amended by R. 1590 of 27 August 1993 and substituted by R. 770 of 4 August 2006]*
- (c) such seed, or in the case of a mixture, the seed of each of the varieties present therein, is true to variety;
  - (d) no prohibited weed seed is present in such seed; and
  - (e) such seed is homogenous.

*Requirements for seed which is certified*

26.(1) Seed which has been certified may, without an authority referred to in section 13 of the Act, be sold with an indication that it has been thus certified if -

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

(2) If the provisions of subregulation (1) cannot be complied with in respect of seed which was certified, such seed shall only be sold without an authority referred to in section 13 of the Act if -

- (a) it complies with the applicable provisions referred to in regulation 22 or 25, as the case may be; and
- (b) prior to, at or after the sale of such seed no reference whatsoever is made of the fact that it was presented for certification or was thus certified.

*Maximum mass of prepacked seed*

27. The maximum mass of seed of a kind of plant specified in column 1 of Table 4 which may be prepacked per container, shall, with due observance of the provisions of the Trade Metrology Act, 1973 (Act No. 77 of 1973), not exceed the mass specified in column 9 of the said Table opposite the name of the kind concerned.

*[Regulation 27 substituted by R. 1590 of 27 August 1993; R. 174 of 10 February 1995 and amended by R. 770 of 4 August 2006]*

28. . . . .

*[Regulation 28 repealed by R. 1287 of 14 June 1985]*

*Permissible tolerance with regard to the indication of germination or viability groups*

29.(1) The germination or viability percentage groups indicated in terms of regulation 36(1)(d) on a container or on a label attached to a container, are accepted as correct if -

- (a) the actual percentage germination or viability used to determine the groups concerned; and
- (b) the percentage germination or viability of the seed concerned, as determined by a test, examination or analysis in terms of section 25(2)(d) of the Act,

when compared, the tolerance provided for the relevant test, examination or analysis, is not exceeded.

(2) The rule of tolerance, referred to in subregulation (1), shall only be applied when the actual percentage germination or viability referred to in subregulation 1(a), has been obtained from a test report that has been drawn up in accordance with the terms of regulation 12A(1) and such test report has been made available for inspection to the registrar, an officer or an authorised person.

*[Regulation 29 amended by R. 1287 of 14 June 1985 and substituted by R. 1590 of 27 August 1993, R. 513 of 18 March 1994 and R. 97 of 24 January 1997]*

**CHAPTER VI****REQUIREMENTS RELATING TO PLANTS AND PROPAGATING MATERIAL OTHER THAN SEED***Maximum number of certified plants in lots*

30. . . . .

*[Regulation 30 repealed by R. 1287 of 14 June 1985]*

**Requirements for plants that are not certified**

31.(1) Subject to the provisions of subregulations (2), (3) and (4), a plant that has not been certified, may be sold without an authority referred to in section 13 of the Act if -

- (a) such plant and, if it has been grafted or budded, the rootstock thereof is -
  - (i) true to type and true to variety;
  - (ii) free from the insects specified in Table 7, and visually free from any other insects; and

*[Subparagraph (ii) amended by R. 1489 of 11 July 1986]*

- (iii) visually free from pathogens;
- (b) in the case of a plant referred to in subregulations (2), (3) and (4), such plant or vegetative material that is used for the cultivation of a plant originates from an establishment registered as a nursery under the Act;

- (c) in the case of *Vitis spp.*, each rootstock graft shoot, rootstock plant shoot, rootstock of a grafted plant and rooted rootstock plant originates from a parent plantation that is cultivated only for the production of rootstocks and is situated on a premises registered as an establishment;
- (d) where applicable -
  - (i) such plant shows vigorous growth in all respects;
  - (ii) the graft or bud union of such plant has grown together right around, except where otherwise provided in subregulation (4)(i) (i) and (ii);
  - (iii) no signs of nutritional deficiency, drying out or physiological, chemical, insect, pathogen, hail, cold or serious mechanical damage are visible on such plant; and
  - (iv) the root system of such plant is well-developed and the roots spread in different directions, except where otherwise provided in subregulation (3)(e)(iii).

(2) A plant of *Citrus spp.*, *Fortunella spp.*, *Poncirus spp.* and any cross of such plants that has not been certified may be sold without an authority referred to in section 13 of the Act if -

- (a) in the case of seed for a rootstock, such seed contains not more than 5 per cent under-developed seed and not more than 5 per cent damaged seed: Provided that the aggregate of the under-developed and damaged seed content shall not exceed 5 per cent;
- (b) in the case of budwood for a scion the thorns, leaves and side shoots of such budwood have been removed immediately after the collection thereof;
- (c) in the case of a nursery plant grafted or budded -
  - (i) the graft or bud union of such plant is at least 200 mm above the ground;
  - (ii) the scion of a nursery plant is at least 150 mm above the graft or bud union; and  
[Subparagraph (ii) substituted by R. 86 of 22 January 1988 and R. 513 of 18 March 1994]
  - (iii) the difference between the diameter of the scion and the rootstock of such plant 50 mm above and 50 mm below the graft or bud union, does not exceed 5,0 mm; and  
[Paragraph (c) substituted by R. 513 of 18 March 1994]
- (d) in the case of a nursery plant that is not grafted or budded, such plant is at least 350 mm above the ground.  
[Paragraph (d) substituted by R. 513 of 18 March 1994]
- (e) in the case of any nursery plant -
  - (i) the bole of such plant is straight;
  - (ii) such a plant is not subject to bark flaking or any other abnormality; and
  - (iii) if such plant has been cut back, it is not shorter than 500 mm:

Provided that this regulation shall not apply to ornamental plants of *Citrus spp.*, *Fortunella spp.*, *Poncirus spp.* or any cross of such plants.

(3) A plant of *Malus* spp., *Prunus armeniaca* L., *Prunus avium* L., *Prunus cerasus* L., *Prunus domestica* L., *Prunus persica* Batsch, *Prunus salinica* Lindl or *Pyrus communis* L. that has not been certified may be sold without an authority referred to in section 13 of the Act if -

- (a) in the case of seed for seedlings -
  - (i) the percentage germination of that seed is at least 75; and
  - (ii) that seed contains not more than 5 per cent under-developed seed and not more than 5 per cent damaged seed: Provided that the aggregate of the under-developed and damaged seed content shall not exceed 5 per cent;
- (b) in the case of graftwood or budwood -
  - (i) that wood is well-matured; and
  - (ii) the side shoots and spurs on that wood were removed immediately after collection;
- (c) in the case of an unrooted hardwood cutting, that cutting originates from the growth of the previous growing season;
- (d) in the case of a rooted rootstock cutting -
  - (i) that cutting is not older than two years;
  - (ii) the length of that cutting above the uppermost root is at least 300 mm;  
[English version of subparagraph (ii) corrected by R. 1524 of 12 July 1985]
  - (iii) the diameter of that cutting above the uppermost root is 8 mm;
  - (iv) that cutting is straight; and
  - (v) that cutting has at least two roots with a minimum length of 50 mm each;
- (e) in the case of an apple seedling or apple layer -
  - (i) that seedling or layer is not older than one year;
  - (ii) the bole of that seedling or layer is straight;
  - (iii) the root system of that seedling or layer is well-developed; and
  - (iv) the bole diameter 200 mm above the uppermost root of that seedling or layer is not more than 15 mm; and
- (f) in the case of a nursery plant -
  - (i) of a stone fruit, any graft or bud union is between 120 mm and 200 mm above the uppermost root;
  - (ii) of a pome fruit, any graft or bud union is between 150 mm and 250 mm above the uppermost root;
  - (iii) the bole diameter 50 mm above the graft or bud union of a one-year-old and two-year-old plant is at least 7 mm and 8 mm respectively;
  - (iv) the side shoots of that plant after leaf drop have not been cut back to shorter than 100 mm;
  - (v) no side shoots appear below the graft or bud union of that plant;

- (vi) that plant has not been cut back to shorter than 1,5 m above the graft or bud union: Provided that where such a plant has been established in a container, that plant has not been cut back to shorter than 500 mm above the graft or bud union;

[Subparagraph (vi) substituted by R. 2496 of 9 December 1988]

- (vii) the pruning wound above the graft or bud union of that plant is sealed with a wound sealer;
- (viii) the roots of that plant are not pot-bound and, if cut back, are not shorter than 150 mm;
- (ix) that plant has no dead or torn roots;
- (x) the bole of that plant is straight; and
- (xi) where such a plant has been established in a container, that plant has not been established in such container for longer than one year:

[Subparagraph (xi) substituted by R. 2496 of 9 December 1988]

Provided that this subregulation shall not apply to ornamental plants of *Malus* spp., *Prunus* spp. and *Pyrus* spp.

(4) A plant of *Vitis* spp. that has not been certified may be sold without an authority referred to in section 13 of the Act, if -

- (a) in the case of a scion graft shoot -
  - (i) that shoot does not originate from a plant younger than two years;
  - (ii) the buds of that shoot are dormant for graft purposes and show no signs of budding or swelling;
  - (iii) that shoot is well-matured over the entire length thereof; and
  - (iv) the diameter between the nodes over the entire length of that shoot is between 6 mm and 12 mm;
- (b) in the case of a scion plant shoot -
  - (i) that shoot does not originate from a plant younger than two years;
  - (ii) the buds of that shoot are dormant and show no signs of budding or swelling;
  - (iii) that shoot is at least 300 mm in length;
  - (iv) that shoot is well-matured over the entire length thereof;
  - (v) that shoot has no anchors or side shoots;
  - (vi) that shoot is so straight that it fits in its length between two parallel straight lines 30 mm apart; and
  - (vii) the diameter of that shoot between the two upper buds is not less than 4 mm;
- (c) in the case of a rootstock graft shoot -
  - (i) that shoot does not originate from a plant younger than two years;
  - (ii) that shoot is well-matured over the entire length thereof;

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

- (h) in the case of a rooted grafted plant that is not established in a container -
  - (i) the diameter of the scion of that plant is not more than 3 mm thicker and not more than 3 mm thinner than the rootstock;
  - (ii) at least two well developed roots appear on the base of that plant;
  - (iii) no signs are visible of the removal of roots thicker than 2 mm in diameter from the scion of that plant;
  - (iv) no live buds appear on the rootstock of that plant;
  - (v) that plant has at least one mature shoot with a minimum length of 100 mm when it is of the variety Barlinka or Hanepoot and 150 mm when it is of another variety;
  - (vi) the rootstock of that plant is at least 200 mm in length; and
  - (vii) no dead parts appear on that plant; and
- (i) in the case of a grafted plant in a container -
  - (i) the side graft union of that plant is firmly callused at at least the bottom three quarter of that union;
  - (ii) the top graft union of that plant is firmly callused right around;
  - (iii) the diameter of the scion of that plant is not more than 2 mm thicker or more than 3 mm thinner than the rootstock;
  - (iv) the length of any rootstock bole originating from dormant wood is at least 150 mm and the internode diameter thereof is at least 5 mm;
  - (v) with the exception of a cartonised plant, that plant has at least one shoot with a minimum length of 150 mm that, when dormant, is well-matured over at least two-thirds of the length thereof;
  - (vi) when cartonised, that plant has at least one shoot with a minimum length of 100 mm;
  - (vii) at least three strongly developed roots appear on the base of that plant; and
  - (viii) no signs are visible of the removal of roots thicker than 2 mm in diameter from the scion of that plant; and
- (j) in the case of a rooted green-grafted plant in a container –
  - (i) the graft union of a green-grafted plant in a container shall be firmly callused right around;
  - (ii) the internodal diameter of the scions of such a plant shall be at least 1,5 mm;
  - (iii) each one-year-old plant, when dormant, shall have at least one mature shoot with a minimum length of 80 mm;
  - (iv) each plant, when not dormant, which has stood over for one season after grafting, shall have at least one green shoot with a minimum length of 80 mm;

- (v) the rootstock of such a plant shall have a length of at least 100mm, with an internodal diameter of at least 1,5 mm and be well-matured over the entire length thereof; and
- (vi) each plant shall have at least three well-developed roots that are evenly spread around the base thereof.”.

*[Paragraph (j) inserted by R. 849 of 2 September 2005]*

Provided that this subregulation shall not apply to ornamental plants of *Vitis* spp.

- (5) The provisions of regulation 29 shall *mutatis mutandis* apply to the permissible tolerance between the required properties of plants referred to in this regulation and the result of a test, examination or analysis for each such property.

*[Regulation 31 substituted by R. 1287 of 14 June 1985]*

*Requirements for potato tubers that are not certified*

- 31A. Potato tubers that have not been certified, may be sold without an authority referred to in section 13 of the Act if such tubers are true to variety.

*[Regulation 31A inserted by R. 2496 of 9 December 1988]*

*Requirements for plants and propagating material which are certified*

- 32.(1) Plants and propagating material other than seed, which have been certified, may be sold with an indication that they have been so certified, without an authority referred to in section 13 of the Act, if -

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

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

- (3) The provisions of regulation 29 shall *mutatis mutandis* apply in respect of plants and propagating material referred to in this regulation.

## CHAPTER VII CONTAINERS OF PROPAGATING MATERIAL

*Requirements for containers*

33. A container in which -

- (i) propagating material is sold shall be sound and clean; and
- (ii) a plant is established for sale shall be sound.

*[Regulation 33 substituted by R. 1287 of 14 June 1985]*

*Sealing of containers of prepacked propagating material*

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

(2) When the seal of a container in which propagating material was prepacked or the container concerned is broken for reasons other than sampling in terms of section 25 of the Act, such propagating material shall not be deemed to have been prepacked.

**CHAPTER VIII****MARKING AND LABELLING OF PLANTS AND PROPAGATING MATERIAL***Marking and labelling of plants*

35.(1) Subject to the provisions of subregulation (4), a plant that is sold without an authority referred to in section 13 of the Act shall be furnished with a label on which is indicated in clearly legible symbols, letters and figures -

*[Words preceeding paragraph (a) substituted by R. 1287 of 14 June 1985]*

- (a) the recognised name of the kind to which such plant belongs;
- (b) the denomination which is generally used for the variety concerned, unless the registrar determines otherwise in respect of a particular kind of plant;
- (c) in the case of a plant referred to in regulations 31(2), (3) and (4) that has been grafted into a rootstock, also the particulars referred to in paragraphs (a) and (b) in respect of such rootstock;  
*[Paragraph (c) substituted by R. 1287 of 14 June 1985 and amended by R. 849 of 2 September 2005]*
- (d) the name and address of the establishment where such plant is sold or was grown: Provided that where such plant is resold, the name and address of the establishment from which it was obtained, may also, or instead thereof, be indicated;
- (e) the lot number of the lot of plants to which such plant belongs.  
*[Paragraph (e) inserted by R. 1590 of 27 August 1993]*

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

(a) . . . . .  
*[Paragraph (a) deleted by R. 1590 of 27 August 1993]*

- (b) the number of the certificate issued in respect of the lot concerned; and
- (c) the further information which shall appear on such label in terms of the scheme concerned.

(3) The appropriate information referred to in subregulations (1) and (2) -

- (a) may be indicated as an alternative on a container in which a plant grows when sold, or on a label attached to such container; and
- (b) may, in the case where plants are packed in bundles, be indicated on a label attached to each separate bundle.  
*[Subregulation (3) substituted by R. 1389 of 26 June 1987]*

(4) The provisions of subregulation (1) shall not apply to the sale of plants that are cultivated in containers and supplied on a large scale direct to a producer for commercial planting: Provided that -

- (i) such producer shall take delivery of the plants at the nursery, or the nursery concerned shall deliver the plants direct to the producer at his premises; and
- (ii) the information referred to in subregulation (1) is furnished in an accompanying invoice.

[Subregulation (4) inserted R. 1287 of 14 June 1985 and substituted by R. 1389 of 26 June 1987]

*Marking and labelling of seed which is not certified*

36.(1) A container in which seed referred to in regulations 22 and 24, which is not certified or prepacked, is sold, shall be marked in clearly legible symbols, letters and figures with, or be furnished with a label on which is likewise indicated -

- (a) the name, as indicated in a notice under section 2 of the Act, of the kind of plant to which such seed belongs;
- (b) the denomination of the variety to which such seed belongs, in the manner required in terms of section 13(1)(a) and (b) of the Act;
- (c) the lot number of such seed;
- (d) the words "Percentage Germination" or "Percentage Viability", where applicable, followed by the group within which the actual percentage germination or the actual percentage viability, where applicable, of such seed falls, which shall be expressed as -
  - (i) 10 – 19 or 15-19 in the case of *Digitaria smutsii* Stent only;
  - (ii) 20 - 29;
  - (iii) 30 - 39;
  - (iv) 40 - 49;
  - (v) 50 - 59;
  - (vi) 60 - 69;
  - (vii) 70 - 79;
  - (viii) 80 - 89; and
  - (ix) 90 - 100;

[Paragraph (d) substituted and amended by R. 1287 of 14 June 1985; R. 2496 of 9 December 1988; R. 1590 of 27 August 1993; R. 174 of 10 February 1995; and R. 770 of 4 August 2006]

- (e) in the case of *Chloris gayana* Kunth where germination is alternatively determined by the weighed replicate method, germination shall be expressed as the number of normal seedlings per weight (kg); and

[Paragraph (e) inserted by R. 770 of 4 August 2006]

- (f) the name and address of the establishment where such seed is sold: Provided that where such seed is resold, the name and address of the establishment from which it was obtained, may also, or instead thereof, be indicated.

- (2) In addition to the information referred to in subregulation (1) -
- (a) the wording on the container in which seed is sold or on the label attached to such container shall comply with the requirements relating to seed, as prescribed in terms of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947), the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and the Hazardous Substances Act, 1973 (Act No. 15 of 1973);  
*[Paragraph (a) deleted by R. 1976 of 22 December 1995 and inserted by R. 1177 of 19 July 1996]*
  - (b) the word "Pollinator" or the word "Bestuier", followed by the actual percentage content, calculated on a mass basis, of the seed of such pollinator, shall also be indicated on a container in which seed is sold, or on a label attached to such container, if seed of a pollinator is present in the seed concerned;
  - (c) notwithstanding the provisions of subregulation (a) of regulation 22, the words "Percentage pure seed" followed by the actual percentage pure seed in such seed, if the percentage pure seed in such seed is 97 or less;  
*[Paragraph (c) substituted by R. 1590 of 27 August 1993]*
  - (d) the number of pure units of coated seed per mass unit shall also, in the case of coated seed, be indicated on a container in which seed is sold, or on a label attached to such container; and  
*[Paragraph (d) substituted by R. 1590 of 27 August 1993]*
  - (e) the word "Hybrid" or the word "Baster" may only be indicated on a container in which seed is sold, or on a label attached to such container, if the seed in that container consists of at least 90 per cent hybrid seed of the variety concerned.

*Marking and labelling of containers of potato tubers that are not certified*

36A. A container in which potato tubers that are not certified, is sold shall be marked in clearly legible symbols, letters and figures with, or be provided with a label on which is likewise indicated -

- (a) the name, as indicated in a notice under section 2 of the Act, of the kind of plant concerned;
- (b) the denomination of the variety to which those tubers belong, in the manner required in terms of section 13(1)(a) and (b) of the Act; and
- (c) the name and address of the seller where those tubers are sold: Provided that where those tubers are resold, the name and address of the seller from which it was obtained, may also, or instead thereof, be indicated.

*[Regulation 36A inserted by R. 2496 of 9 December 1988]*

*Marking and labelling of seed mixtures*

37. A container in which a seed mixture referred to in regulation 23, which is not prepacked, is sold, shall be marked in clearly legible symbols, letters and figures with, or be furnished with a label on which is likewise indicated -

- (a) the word "Mixture" or the word "Mengsel", followed by the particulars referred to in regulation 36(1)(a) and (b) in respect of each of the kinds and varieties present in such mixture;
- (b) the actual percentage contents, calculated on a mass basis, of each of the kinds and varieties present in such mixture;

- (c) the lot number of that seed;
- (d) the percentage germination or viability, where applicable, expressed in the manner indicated in regulation 36(1)(d), of each of such kinds and varieties present in such mixture;

*[Paragraph (d) amended by R. 174 of 10 February 1995]*

- (e) the name and address of the establishment where such seed is sold: Provided that where such seed is resold, the name and address of the establishment from which it is obtained, may also, or instead thereof, be indicated; and
- (f) notwithstanding the provisions of subregulation (a) of regulation 22, the words "Percentage pure seed" followed by the actual percentage pure seed of each of the kinds and varieties present in such mixture, if the percentage pure seed in such seed is 97 or less.

*[Paragraph (f) substituted by R. 1590 of 27 August 1993]*

#### *Marking and labelling of prepacked seed*

38.(1) A container in which seed referred to in regulation 25, which has been prepacked, is sold, shall be marked in clearly legible symbols, letters and figures with, or be furnished with a label on which is likewise indicated -

- (a) the particulars referred to in regulation 36(1)(a), (b) and (c) and (2)(a), (b) and (e);
- (b) the name and address of the establishment where such seed was prepacked; and
- (c) the words "Prepacked Seed" or the words "Voorafverpakte Saad" if the net mass of the seed in the container concerned exceeds the mass specified in column 11 of Table 4 or if the number of seeds in the container concerned exceeds the number of seeds specified in column 12 of Table 4 opposite the name of the kind of plant concerned.

*[Paragraph (c) amended by R. 1590 of 27 August 1993; substituted by R. 1177 of 19 July 1996 and amended by R. 770 of 4 August 2006]*

(2) Subject to the provisions of subregulation (1) an indication relating to percentage germination, percentage viability, the actual percentage pure seed or the number of normal seedlings per weight (kg) may appear on a container in which prepacked seed is sold or on a label attached to such container: Provided that the date on which seed has been tested shall be marked in clearly legible letters on the container or on the label.

*[Subregulation (2) substituted by R. 1590 of 27 August 1993; R. 1177 of 19 July 1996 and R. 770 of 4 August 2006]*

(3) If such seed is certified, the words "South African Certified Seed" or "Suid-Afrikaanse Gesertifiseerde Saad" and the number of the certificate issued in respect of the propagating material in the lot concerned shall be furnished if the net mass of the seed in the container concerned exceeds the mass specified in column 11 of Table 4 or if the number of seeds in the container concerned exceeds the number of seeds specified in column 12 of Table 4 opposite the name of the kind of plant concerned.

*[Subregulation (3) inserted by R. 1177 of 19 July 1996 and amended by R. 770 of 4 August 2006]*

#### *Marking and labelling of seed that is certified*

39.(1) A container in which seed that has been certified is sold shall be marked in clearly legible symbols, letters and figures with, or be provided with a label on which is likewise indicated -

- (a) subject to the provisions of subregulation (2), the appropriate particulars which are required in terms of regulation 36 in respect of seed which has not been certified;
- (b) the number of the certificate issued in respect of the lot concerned; and

- (c) the further information which, in terms of the scheme concerned, is required to be indicated on such container or label.

(2) Notwithstanding the provisions of paragraph (a) of subregulation (1), the indication of the germination group or viability group, where applicable, referred to in paragraph (d) of regulation 36(1), shall not be required on the containers of certified maize seed.

*[Regulation 39 amended and substituted by R. 1287 of 14 June 1985; R. 1590 of 27 August 1993; and R. 174 of 10 February 1995]*

*Marking and labelling of containers of potato tubers that are certified*

39A. A container in which potato tubers that are certified, is sold shall be marked in clearly legible symbols, letters and figures with, or be provided with a label on which is likewise indicated -

- (a) the appropriate particulars that are required in terms of regulation 36A in respect of potato tubers that are not certified;
- (b) the number of the certificate issued in respect of the lot concerned; and
- (c) the further information that, in terms of the scheme concerned, is required to be indicated on such container or label.

*[Regulation 39A inserted by R. 2496 of 9 December 1988]*

*Limitation on indications*

40. Except where the registrar determines otherwise, no brand, name, design, illustration, indication or particulars shall appear on a container in which a plant or propagating material is sold, or on a label attached to such plant or container -

- (a) unless it shall in terms of these regulations or, in the case of a plant or propagating material which is certified, the scheme concerned, appear thereon;
- (b) unless it shall or may, in terms of any other law, appear thereon; or
- (c) unless it relates to the relevant plant or propagating material, or the producer thereof or the establishment where it was cleansed or sold.

## **CHAPTER IX**

### **IMPORT AND EXPORT OF PLANTS AND PROPAGATING MATERIAL**

*Requirements for imported seed*

41. Seed of a kind of plant specified in column 1 of Table 4, that is imported into the Republic -

- (a) shall be true to variety;
- (b) shall comply with the applicable requirements referred to in regulation 25 in respect of other matter and other seed; and
- (c) shall at the time of the presentation thereof for examination and sampling in terms of section 26(4) of the Act, comply with the minimum percentage germination, minimum percentage viability or minimum number of normal seedlings per weight (kg) referred to in regulation 25.

*[Regulation 41 amended and substituted by R. 1287 of 14 June 1985; R. 2496 of 9 December 1988; R. 174 of 10 February 1995; and R. 770 of 4 August 2006]*

*Requirements for imported potato tubers*

- 41A. Potato tubers that are imported into the Republic shall be true to variety.  
*[Regulation 41A inserted by R. 2496 of 9 December 1988]*

*Requirements for imported strawberry plants*

- 41B. Strawberry plants that are imported into the Republic shall be true to variety.  
*[Regulation 41B inserted by R. 1638 of 12 July 1991]*

*Marking and labelling of imported seed*

42. The provisions of regulation 36(1)(a), (b) and (c) and (2)(b), (d) and (e) shall *mutatis mutandis* apply to the particulars which shall appear on a container of seed which is imported into the Republic, or on a label attached to such container: Provided that the name and address of the establishment where such seed is sold are not required.  
*[Regulatie 42 amended by R. 1976 of 22 December 1995]*

*Marking and labelling of containers of imported potato tubers*

- 42A. A container in which potato tubers are imported shall be marked in clearly legible symbols, letters and figures with, or be furnished with a label on which is likewise indicated -
- (a) the name, as indicated in a notice under section 2 of the Act, of the kind of plant concerned;
  - (b) the denomination of the variety to which those tubers belong, in the manner required in terms of section 13(1)(a) and (b) of the Act; and
  - (c) the name and address of the person who imported those tubers.  
*[Regulation 42A inserted by R. 2496 of 9 December 1988]*

*Marking and labelling of containers of imported strawberry plants*

- 42B. A container in which strawberry plants are imported shall be marked in clearly legible symbols, letters and figures with, or be furnished with a label on which is likewise indicated -
- (a) the name, as indicated in a notice under section 2 of the Act, of the kind of plant concerned;
  - (b) the denomination of the variety to which those plants belong, in the manner required in terms of section 13(1)(a) and (b) of the Act; and
  - (c) the name and address of the person who imported those plants.  
*[Regulation 42B inserted by R. 1638 of 12 July 1991]*

*Ports of entry*

43. Unless the registrar, following an application in respect of a particular consignment of seed, determines otherwise in terms of section 26(1)(d) of the Act, the places specified in column 1 of Table 5 shall be ports of entry through which seed may be imported into the Republic.

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

44.(1) A declaration relating to each consignment of plants and propagating material that is imported into the Republic for immediate export or for purposes other than the cultivation thereof shall, prior to or on the arrival thereof in the Republic, be lodged in the form set out in Schedule L by the person who imports that plants and propagating material.

(2) Such a form in respect of a consignment of plants and propagating material that is imported shall be posted to or delivered at the address specified in column 2 of Table 5.

(3) A consignment of plants and propagating material may be removed from the port of entry thereof only after a declaration referred to in subregulation (1) in respect thereof has been received at the address referred to in subregulation (2).

*[Regulation 44 repealed by R. 1621 of 22 July 1983; inserted by R. 1287 of 14 June 1985; and amended by R. 2496 of 9 December 1988]*

*Examination and sampling of imported seed and seed intended for export*

45.(1) Seed which is imported into the Republic or is intended for export shall be presented for examination and sampling in such a manner that -

(a) access to the seed concerned can readily be obtained; and  
*[Paragraph (a) repealed by R. 1621 of 22 July 1983 and inserted by R. 256 of 14 February 1986]*

(b) all the marks, printing or writing on the containers of the seed concerned or on labels attached to such containers may readily be read.

(2) Seed shall only be examined and sampled during office hours.

(3) When an inspection of seed in respect of which an application in terms of subregulation 45A(1) has been made, is undertaken, or samples of such seed is tested, examined or analysed, the applicant concerned shall pay the applicable fees specified in items 1(b) and 1(c) of Table 1.

*[Subregulation (3) amended by R. 1976 of 22 December 1995]  
[Regulation 45 substituted by R. 256 of 14 February 1986]*

*Application for certificate for export of seed*

45A.(1) Subject to the provisions of subregulation (3), an application for a certificate that authorises the export of seed shall be lodged on the form obtainable from the Registrar for this purpose.

*[Subregulation (1) substituted by R. 1638 of 12 July 1991]*

(2) An application shall thus be lodged in duplicate in respect of each separate consignment of seed, and each such application shall -

(a) be accompanied by the application fee indicated in item 1(a) of Table 1; and

(b) reach the registrar at least 10 days prior to the intended date on which the seed concerned will be exported.

*[Subregulation (2) amended by R. 1700 of 7 August 1987 and R. 1976 of 22 December 1995]*

(3) The provisions of section 27(1) of the Act shall not apply to the export of seed of which the mass per kind and variety does not exceed 50 kg.

*[Subregulation (3) inserted by R. 1638 of 12 July 1991]  
[Regulation 45A inserted by R. 256 of 14 February 1986]*

46. . . . .

*[Regulation 46 amended by R. 1621 of 22 July 1983 and deleted by R. 1638 of 12 July 1991]*

*Availability of seed for sampling*

47. If -

- (a) access to a lot of seed at a place or premises cannot readily be obtained by an officer requiring a sample of that seed; or
- (b) the lighting at a place or premises where seed is sampled is not sufficient to enable an officer requiring a sample of that seed to readily read all the marks, printing or writing on the containers of the seed concerned, or on labels attached to such containers,

the person in charge of the place or premises in question or, in the case of seed that is imported or is being exported, the importer or exporter thereof or his agent, shall render all reasonable assistance required by the officer concerned to enable him to obtain the required sample and to identify the seed concerned.

*[Regulation 47 amended by R. 256 of 14 February 1986]*

*Certificates in connection with sampling and analysis*

48.(1) A certificate in terms of section 25(3)(b) of the Act in respect of the sampling of a lot of seed shall be completed in the form set out in Schedule G.

(2) The result of a test, examination or analysis carried out in terms of section 25(3)(d) of the Act with the sample of a lot of seed shall be entered in the form set out in Schedule H.

**CHAPTER XI**  
**INSPECTION AND SAMPLING OF PLANTS AND**  
**PROPAGATING MATERIAL OTHER THAN SEED**

49. Deleted . . . . .

*[Regulation 49 deleted by R. 2119 of 24 July 1992]*

*Availability of plants and propagating material for sampling*

50. The provisions of regulation 47 shall *mutatis mutandis* apply to the rendering of reasonable assistance which an officer may require to enable him to obtain a sample of plants or propagating material other than seed and to identify the plants or propagating material concerned.

*Certificates in connection with sampling and analysis of plants and propagating material*

51.(1) A certificate in terms of section 25(3)(b) of the Act in respect of the sampling of a lot of plants or propagating material other than seed shall be completed in the form set out in Schedule I.

(2) The result of a test, examination or analysis carried out in terms of section 25(3)(d) of the Act on a sample of a lot of plants or propagating material other than seed shall be entered in the form set out in Schedule J.

**CHAPTER XII**  
**GENERAL**

*Inspection and copies of documents*

52.(1) The fee specified in item 4(a) of Table 1 shall be payable by any person desiring to inspect a document which has been lodged with the registrar in terms of the Act and which, in the opinion of the registrar, may be open for inspection by the public.

(2) Any person requiring a copy of a document referred to in subregulation (1) shall apply therefor in the form set out in Schedule K.

(3) Such an application shall be accompanied by the application fee specified in item 4(b) of Table 1.

*[Regulation 52 substituted by R. 1621 of 22 July 1983 and amended by R. 1976 of 22 December 1995]*

*Appeal against decision or action of registrar*

53.(1) An appeal in terms of section 32 of the Act shall -

(a) be lodged with the Director-General: Agriculture, in writing within 60 days of the date on which the registrar has given any person referred to in that section written notice of the decision or action concerned;

*[Paragraph (a) substituted by R. 1621 of 22 July 1983]*

(b) state the reference number and date of the document by means of which such person was notified of such decision or action;

(c) state the grounds on which the appeal is based; and

(d) be accompanied by the fee specified in item 4(c) of Table 1.

*[Paragraph (d) substituted by R. 1621 of 22 July 1983 and R. 1976 of 22 December 1995]*

(2) An appeal shall -

(a) when forwarded by post, be addressed to the Director-General: Agriculture, Private Bag X250, Pretoria, 0001; or

(b) when delivered by hand, be delivered to the Deputy Director-General, Directorate of Agriculture Administration, Dirk Uys Building, Hamilton Street, Pretoria.

*[Subregulation (2) substituted and amended by R. 1621 of 22 July 1983 and R. 2119 of 24 July 1992]*

53A. . . . .

*[Regulation 53A inserted by R. 256 of 14 February 1985 and deleted by R. 76 of 18 January 1991]*

*Payment of fees*

54.(1) Any fees payable in terms of these regulations shall be paid by cheque, postal order or money order made out in favour of the Director-General: Agriculture: Provided that if such fee is delivered by hand, it may be paid in cash.

*[Subregulation (1) substituted by R. 1621 of 22 July 1983]*

(2) Subject to the provisions of section 32(11) of the Act, fees paid in terms of these regulations shall not be repayable.

*Addresses for submission of documents*

55.(1) Postage on and delivery costs of any application, document and appeal lodged in terms of these regulations, as well as on or of anything else pertaining thereto, shall be prepaid.

(2) Any such application and document, save an appeal referred to in regulation 53, shall be lodged with the registrar and shall -

*[Words preceeding paragraph (a) substituted by R. 1621 of 22 July 1983]*

(a) when forwarded by post, be addressed to -

The Registrar of Plant Improvement  
Private Bag X258  
PRETORIA  
0001;  
or

*[Paragraph (a) substituted by R. 1590 of 27 August 1993]*

(b) when delivered by hand, be delivered to The Registrar of Plant Improvement, Directorate of Plant and Quality Control, Dirk Uys Building, Hamilton Street, Pretoria.

*[Paragraph (b) substituted by R. 2119 of 24 July 1992]*

*Supply and completion of forms*

56.(1) The forms set out in Schedules D and K shall be set out on A4-size paper as shown therein and shall have a 30 mm margin on the left-hand side.

*[Subregulation (1) substituted and amended by R. 1621 of 22 July 1983; R. 256 of 14 February 1986; and R. 2119 of 24 July 1992]*

(2) Such forms shall be supplied by any person required to use them.

(3) . . . . .

*[Subregulation (3) deleted by R. 2119 of 24 July 1992]*

(4) The form referred to in subregulation (1) as well as all other documents and copies of documents lodged in terms of the Act and these regulations, as well as records which are thus to be kept shall, unless the registrar or Director-General: Agriculture, as the case may be, directs otherwise, be written, typewritten or printed -

*[Words preceeding paragraph (a) substituted and amended by R. 1621 of 22 July 1983 and R. 1590 of 27 August 1993]*

(a) in one of the official languages of the Republic;

(b) in legible letters and figures, in deep permanent black ink;

(c) on strong white paper of a satisfactory quality; and

(d) on one side of such paper only.

*Offences and penalties*

57. Any person who contravenes or fails to comply with any provision or requirement of these regulations shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months.

*Date of commencement*

58. These regulations shall come into operation on 2 June 1980.