



THE GAMBIA

NO. 13 OF 2014

Assented to by The President,

this 18th day of December, 2014



[Signature]
YAHYA A. J. J. JAMMEH
President



AN ACT to make provision for the establishment and functions of a national seed system, to facilitate the availability of seeds to crop producers in the right time and condition, and for connected matters.

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ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Seed Quality Control and Marketing Act, 2014.

2. Interpretation

In this Act unless the context otherwise requires:

"Accredited Private Body" means any private institute authorised by the Government of the Republic of The Gambia to undertake control and certification activities of seed;

"Basic Seed" means any seed from the breeder, or seed produced under the responsibility of a maintainer in accordance with generally accepted breeding conservation rules for that variety and intended for the production of certified seed; it is also referred to as foundation seed (G4);

"Certification" means the culmination of seed quality control processes in the field or in the laboratory, ensuring that the seeds conform to the minimum standards of varietal purity through genealogical parentage and a system of breeder seed maintenance of varietal features, in accordance with the provisions of applicable technical regulation;

"Certified Seed" means any seed obtained from the first or second farming of foundation seed;

"Council" means the National Seed Council established under section 3;

"Cropping History" means cropping undertaken during the planting season immediately preceding the said season;

"Generation" means phylogenies in successive progenies;

"Infected Seed" means any seed invaded by living pathogens such as bacteria, mycoplasma, viruses, protozoa, fungi or yeasts;

"Isolation" means measures taken to protect a seed production farm from pollution or by a foreign pollen;

"Label" means any document visibly displaying specific information in a readable manner to facilitate seed identification and traceability;

"Marketing" means the sale, conservation for the purpose of selling, sale offer and any form of cession, supply or transfer for the purpose of commercial transaction, of seeds of plants with or without remuneration;

"Minister" means the Minister of Agriculture; and

"Ministry" shall be construed accordingly;

"Noxious Weed" means any persistently undesirable plant or weed growing on a farm land;

"person" includes an individual, a body corporate and an unincorporated body;

"Plant" means any vegetative seedling emanating from a seed, stem cuttings, leaves or root, grafts and runners meant for plant production;

"Pollen" means an aggregation of microscopic grains produced by stamens and which constitute the male reproductive element of flowering plants;

"Quality Control" means the set of activities carried out by competent authorities to verify that the varietal or genetic purity of seeds, their physiological and health conditions as well as their technological standard conform to approved and applicable technical regulations;

"Sampling" means the range of techniques used to obtain samples following a specific process or procedure;

"Seed" means any plant material or organ, or part of plant organ, such as grain, shoot, bulb, scion, rhizome, tuber or embryo, able to reproduce a unit;

"Seed health status" means a condition related to the presence or absence of disease caused mainly by fungi, mould, bacteria, virus and other parasites such as insects, ocarinas and nematodes;

"Seed Producer" means any individual or corporate body specialised in the production of seeds and duly registered for inspection;

"Seed sampling" means any portion that is representative of a seed batch sampled in accordance with applicable technical regulations;

"Species" means all plant that inter-cross and are distinguishable by a number of common features;

"Standards" means a set of benchmarks for evaluating seed quality;

"Varieties" means the collection of plants of the lowest known taxon defined by using the characteristics of some genotype or a combination of genotypes, distinguishable from all other plant collections by at least one of these characteristics and considered as an entity given its capacity for authentic reproduction;

"Varietal or genetic purity" means the proportion of plants in the field that meet the standards of the variety; in the laboratory it means the proportion of a given variety in a seed batch; and

"Weed Grain" means any grain produced by undesirable herbaceous plants.

PART II – ADMINISTRATION AND FUNCTIONS

3. Establishment of the National Seed Council and membership

(1) There is established by this Act, the National Seed Council, which shall consist of the following members -

- (a) the Permanent Secretary of the Ministry of Agriculture or his or her representative;
- (b) a representative of the National Agricultural Research Institute;
- (c) two representatives of the Seed Sector;
- (d) a representative of Farmers Association;
- (e) a representative of Seed Growers;
- (f) a representative of the University of The Gambia;
- (g) a representative of the Plant Quarantine Unit;
- (h) the Permanent Secretary of the Ministry of Finance and Economic Affairs or his or her representative;
- (i) a representative of the Association of Non-Governmental Organisations;
- (j) the Commissioner General of Customs or his or her representative; and
- (k) a representative of the Agribusiness Industry.

(2) The Council may co-opt any person or representative of specialised agencies to attend their meetings and give expert advice on any issue that may be relevant to the seed industry.

(3) The Permanent Secretary of the Ministry of Agriculture shall be the Chairperson of the Council.

4. Functions of the Council

The Council shall –

- (a) advice on seed policies for the production, inspection, certification, sampling, analysis, processing, import, export and marketing of seeds;
- (b) monitor the availability and supply of seeds to ensure seed security in the country and formulate procedures for the registration of cultivars or varieties;

(c) recommend to the Minister –

(i) prescribed standards for seeds; and

(ii) procedures for the certification of seeds

(d) advise the Minister on fees for certification and testing of seeds;

(e) publish annually the list of crop varieties grown in the country and appoint such number of committees as it may consider necessary to assist it in the performance of its functions under this Act; and

(f) Without prejudice to the generality of sub-section (1), establish –

(i) a Variety Release and Registration Committee; and

(ii) a Technical Committee

which shall have the functions assigned to them by this Act and shall be answerable to the Council.

5. Variety Release and Registration Committee

The Variety Release and Registration Committee shall –

(a) recommend for the approval of the Council varieties of seeds to be released or withdrawn and species to be included; and

(b) create and update the national list of crops varieties.

6. Technical Committee

The Technical Committee shall advise the Council on –

(a) procedures for registration of cultivars;

(b) prescribed standards for seeds and procedures for the certification of seeds;

(c) the list of varieties of crops grown in the country;

PART III - REGISTRATION AND PROPERTY RIGHTS OR OWNERSHIP

- (d) fees for certification and testing of seeds; and
- (e) any other technical matters requested by the Council.

7. Registration of Varieties

(1) The Council shall be the sole body responsible for the registration of varieties in the country.

(2) A variety to be used in the country shall be developed locally to ensure conformity with requirements and to meet the attributes desired by farmers, consumers and the agro-industry.

(3) Notwithstanding sub-section (2), potential varieties shall be entered into a system of national trials to ascertain their productivity, stability, uniformity, viability and adaptation to ecologies and farming systems of the country.

(4) The Council may upon application made to it register a variety if the variety satisfies conditions for variety adaptation and acceptance.

(5) An application for registration of a new variety shall include-

- (a) a comprehensive description of the variety;
- (b) its attributes; and
- (c) data from trials across designated environments.

8. Control of Varieties and Ownership

(1) Varieties shall be the property of the institution or individual that developed and registered such varieties with the Council.

(2) All contributors to the development of a variety shall be documented at the time of registration, and such contributors shall claim to the variety and proceeds that may accrue from the use of the variety.

9. Seed Register

The Council shall keep a Seeds Register to record -

(3) Notwithstanding sub-section (1), in the event of severe shortage of seed, the Council may authorize the recognition of a temporary fifth class called Commercial Seed which shall comprise

- (d) certified seed which shall be produced from foundation or registered seed and whose production shall be carried out by contract seed growers.
- (c) registered seed which may be produced from foundation seed where the multiplication factor is low, and shall be produced under the general supervision of the sponsoring breeders; and
- (b) foundation seed which shall be produced by the Seed Technology Unit of the Ministry;

(a) breeder seed which shall be under the direct control of the originating breeder or breeding station and shall be used for the production of basic seed or foundation seed (G4);

(2) The Council shall give recognition to the following seed classes -
 (1) Seed production in the country shall follow a four-generation system of seed multiplication.

11. General System of Seed Multiplication

PART IV - SEED PRODUCTION AND QUALITY CONTROL

(2) An application for registration shall be in a form to be prescribed by the Council, and shall be accompanied by a fee to be determined by the Minister on the advice of the Council.

(1) Any person that imports, exports, grows, cleans, tests or sells seeds in commercial quantities shall be registered under this Act.

10. Registration of Seed Importers, etc

- (a) seeds and crops varieties produced in the country or imported into the country;
- (b) names and addresses, principal places of business and other particulars of seed dealers; and
- (c) such other information as the Minister on the advice of the Council may consider necessary to be included in the register.

appropriately lowered standards of previously failed certified seed lots or a production from the multiplication of the certified class.

(4) The Council may also grant recognition of Quality Declared Seed, in line with international standards but shall confine its applicability to projects and programmes specifically authorised and mandated to operate using those International Standards.

12. Quality Control

(1) The seed quality control system shall follow guidelines established by the International Seed Testing Association and the Economic Community of West African States Regulations on the Harmonisation of Rules Governing Quality Control, Certification and Marketing of Plant Seeds and Seedlings in the West African Region.

(2) The Council or its authorised agents or accredited private bodies shall carry out full range quality assurance checks which shall include field inspection and plot tests, laboratory seed testing and seed trade monitoring.

13. Seed Inspector

(1) The Minister may designate qualified persons to act as Seed Inspectors.

(2) A person designated as a Seed Inspector shall be given an identity card as proof of his or her designation and that person shall produce the identity card on entering any place in the exercise of his or her functions under this Act.

(3) A person shall not, while being a Seed Inspector, engage in the production, processing, sale or importation of seeds.

14. Functions and powers of an Inspector

An Inspector may—

(a) enter a place where there is ground to believe there are seeds or enter a field used for the production of seeds to which this Act applies and upon entry inspect the seeds found in the place or field, and take samples of the seeds for laboratory testing and analysis;

(b) at any reasonable time, require a person to produce documents concerned with seeds and examine the documents or obtain extracts of them on the production of an approved identification; and

A seed farm shall be rejected by the official quality control and certification authority or any other accredited private body if it fails to meet the required standards prescribed by the Council in respect of-

17. Rejection of a Seed Farm

- (a) seed farm environment;
- (b) origin of parent seed;
- (c) cropping history;
- (d) isolation; and
- (e) crop condition.

The minimum number of inspections shall be determined based on the following characteristics-

16. Minimum Number of Inspections

physiological maturity:

(d) the fourth inspection shall take place a few days before harvest when the seed is sufficiently firm and has attained

(c) the third inspection shall take place when some fifty percent of the plants are in flower, the flowers are open, the stigmas are receptive and the spores release pollen; and

(b) the second inspection shall take place during the vegetative phase extending from cropping phase to the start of flowering up to emergence of inflorescence;

(a) the first inspection shall take place before cropping to ascertain whether or not the land set aside by the producer meets the minimum characteristics and standards for species to be multiplied;

of a cropping cycle -

(2) At least four inspection exercises shall take place in the course

respect of each visit.

(1) The Seed Inspectors shall have free access to seed farms to carry out extension visits and shall issue field inspection reports in

15. Field Inspection

(c) make copies of any record inspected.

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(c) the third inspection shall take place when some fifty percent of the plants are in flower, the flowers are open, the stigmas are receptive and the spores release pollen; and

(d) the fourth inspection shall take place a few days before harvest when the seed is sufficiently firm and has attained physiological maturity.

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- (a) seed farm environment;
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17. Rejection of a Seed Farm

A seed farm shall be rejected by the official quality control and certification authority or any other accredited private body if it fails to meet the required standards prescribed by the Council in respect of-

(a) physical purity;

(b) noxious weed;

(c) seed health status; and

(d) varietal purity.

18. Inspection Report

(1) Inspections shall take place in the presence of the seed grower or producer or an accredited representative of the producer, and the Seed Inspector shall issue a report containing observations on the cropping condition of the seed farm.

(2) The reports shall, where necessary, contain technical recommendations or directives in accordance with the rules governing the specific seed.

19. Classification of Crops

(1) The Seed Inspectors shall classify crops on the basis of the observations made during control visits.

(2) A crop may be rejected where the technical recommendations or directives issued during previous visits have not been complied with by the seed farmer.

20. Official Seed Analysis Laboratory

(1) The Council shall in consultation with the Plant Health Protection Unit advise the Minister to designate one of the official laboratories as the Official Seed Analysis Laboratory.

(2) The Official Seed Analysis Laboratory shall –

(a) ensure that all seed testing is carried out in accordance with the International Seed Testing Association rules;

(b) ensure the quality assurance in the operation and maintenance of other laboratories that may be established by the government are in line with the standards required by the International Seed Testing Association's rules;

(c) establish criteria, condition and procedures for the implementation of authorisation or accreditation of other public or private sector seed laboratories in the country; and

(d) obtain and maintain membership into the International Seed Testing Association to enhance seed import and export opportunities.

(3) A person shall not, while holding the office of seed inspector or analyst engage in any business connected with the production, processing, sale or importation of seed or be directly engaged in trade or business connected with dealing in seeds.

PART V-REGULATION OF IMPORT AND EXPORT OF SEEDS

21. Seed Imports

The provisions of the Plant Health Protection Act on the importation of Plant Materials shall apply to all seed imports and exports.

22. Application of Orange Certificate

(1) The Orange Certificate of the International Seed Testing Association may be employed where necessary to ensure that the requirement of seed quality and varieties being imported are adhered to by importers.

(2) Small quantities of seed required for research purposes shall not be subjected to plant quarantine checks, provided that the importer has a certificate issued by the exporting country.

23. Procedures for Marketing and Pricing

The Council may develop procedures to promote effective marketing and reasonable pricing of seeds to ensure profitable returns for seed farmers.

PART VI - MISCELLANEOUS PROVISIONS

24. Offences

Any person who -

(a) fails to comply with any of the provisions of this Act;

(b) being the owner or person entrusted with the control or custody of any seed -

(i) refuses to allow an Inspector to take a sample of the seed from any premises which the Inspector is authorised under this Act to take a sample;

(d) obtain and maintain membership into the International Seed Testing Association to enhance seed import and export opportunities.

(3) A person shall not, while holding the office of seed inspector or analyst engage in any business connected with the production, processing, sale or importation of seed or be directly engaged in trade or business connected with dealing in seeds.

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(i) refuses to allow an Inspector to take a sample of the seed from any premises which the Inspector is authorised under this Act to take a sample;

- (ii) delays or obstructs an Inspector, or
- (iii) wilfully makes false or misleading statements either verbally or in writing to the Inspector whilst the Inspector is carrying out his or her duties under this Act;

- (c) fraudulently tampers with any seed sample that is taken or submitted for analysis;
- (d) publishes or distributes any false advertisement on any seed;

- (e) without lawful authority, alters or defaces any certificate, record, labels, or other documents prescribed or issued under this Act;

- (f) sells for sowing any prescribed seed under a description other than its varietal name;

- (g) imports restricted seed or prohibited seed;

- (h) sells, offers or exposes for sale or distributes any weed seed or prohibited seed, infected or infested seed;

- (i) being a designated Inspector, laboratory assistant or seed analyst fraudulently gives false information or receives a bribe in the course of his or her duties; or

- (j) imports, advertises or markets any seed without a label

commits an offence.

25. Penalties

- (1) A person who commits an offence under this Act shall be liable on conviction to a fine of not less than fifty thousand dalasis or, in default, to serve a minimum term of imprisonment of not less than one year.

- (2) Where any seed is used in the commission of an offence, it shall be forfeited to the State and the Council shall be responsible for its disposal.

- (3) Without prejudice to sub-section (1), any person who suffers a direct damage or loss of his or her property as a result of the commission of an offence under this Act may bring a civil claim for compensation before the courts.

- (4) The Council shall in the case of a persistent offender, order the withdrawal of any permit or certificate of registration issued to the offender under this Act.
- 26. Regulations**
- The Ministry may, on the recommendation of the Council make additional Regulations to –
- (a) prescribe the procedures for certification of seeds and the conditions which shall be complied with before any seed is certified or approved;
 - (b) classify the species of plants the seeds of which are deemed to be weed seeds or noxious weed seeds;
 - (c) prescribe the criteria and procedure for authorisation or accreditation of individuals, laboratories, and seed dealers to conduct field inspections, seed sampling, seed testing and labelling;
 - (d) set out the limits, restrictions, and conditions for the importation and exportation of any particular variety or class of seed;
 - (e) prescribe conditions for sampling and testing of seeds;
 - (f) provide the minimum standard of purity, germination and re-testing, quality and disease of seeds;
 - (g) prescribe procedure manuals for –
 - (i) seed import and export procedures;
 - (ii) seed certification and accreditation; or
 - (iii) variety registration in accordance with the regional catalogue for crop species and varieties in West Africa and in The Gambia;
 - (h) prescribe fees and provide for such other matters as are necessary to give effect to the provisions of this Act.

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PASSED in the National Assembly this Ninth day of
December in the year of Our Lord Two Thousand and Fourteen.

D. C. M. Kebbeh

Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill
which has passed in the National Assembly, and found by me to be a true and
correct copy of the said Bill.

D. C. M. Kebbeh

Clerk of the National Assembly.