

## **Chilean regulations for seed production and trade**

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### **Seed Trade Regulations**

The Agriculture and Livestock Service (SAG), organism dependent of the Ministry of Agriculture, with jurisdictional personality and own patrimony, is responsible of applying the legal and regulatory norms about seeds, of controlling their enforcement, and of sanctioning the transgressors. For these purposes, within the structure of the SAG, exists the Department of Seeds, which is responsible of dictating the norms and issuing pertinent technical instructions.

#### Legal Basis

- Organic Law of SAG (Law 18.755/89 modified by Law 19.283/94)
- Seeds Law (D.L. 1764/94)
- Breeder's Rights Law of New Vegetable Varieties (Law 19.342/94)
- Dispositions about Agricultural Protection (D.L. N° 3.557 of 1980).
- General Normative of Seed Law (Decree 188/78).
- Seed and Fruit Plant Normative (Decree 195/79).
- Breeder's Law Normative (Decree 373/96).
- Establishment of a listing of prohibited weeds for the import and commerce of seeds (Resolution N° 481/91).
- Establishment of requirements for marketing of ordinary seeds (Resolution N° 379/91).

#### **Legal Concept Of Seed**

Any grain, tuber, bulb and, in general, any plantation material or vegetable structure destined to the sexual or asexual reproduction of a botanical species.

#### **General Concepts**

The Seed Law and its Normatives submit the production and commerce of seeds to a System of Classification and Characterization, establishing the requisites to accomplish, the method of control, and the applicable sanctions to transgressors.

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## **Purpose Of The Norms**

- To insure a clean competition among producers of the good.
- To avoid that the farmer could be induced to error with regards to class and type of the seed that he acquires or is offered.

## **Classification Of Seeds**

According to the national normative only two classes of seeds exist:

- Certified
- Ordinary

This classification refers to the degree of certainty over the identity and declared conditions of the goods because the certified seed is submitted to the control of the certifying authority (SAG) in the production process, which does not occur with the ordinary seed that is only controlled during marketing.

## **Characterization Of Seeds**

The seed must be sold classified and characterized, the main element of characterization being the indication of the species and the variety to which the seed belongs. This is so, because the qualities of the variety sometimes are determinants in the result of the crop and to place the product in the market.

## **Containers and Labels**

- The law states that the seed must be sold in closed containers.
- The containers of ordinary seeds must have printed or marked in their outer face the species, variety, disinfected or non-disinfected, and the expression "ordinary seed".
- The containers of certified seeds must have printed the species, variety and category, control number and lot, disinfected, and name of producer.
- The demand of a label applies to any material ruled by the norms of the Seed Law and its Normatives. It permits the buyer to know what class and type corresponds the material that he is purchasing and its characteristics.

## **Ordinary Seed Label**

- They must be of yellow color, adequate size of the container, and can be flyers, stickers, or printed on the container.
- The label must contain the readings "ordinary seed", indicate species, variety, month and year that the seed was packaged, lot number and name and address of packer: sanitary state is optional.

## **Certified Seed Label**

- Is given by SAG, has a rectangular shape and the color depends on its category.
- The label must contain the name of the Certifying Organism, species, variety, producer, category, control number and lot, and date of package (month and year).

## **List Of Officially Described Varieties**

This list enumerates all the varieties of seeds that have been presented to SAG. It is conformed by the registered varieties in the Protected Varieties Registry, in the Registry of Varieties Able of Certification, and of those described by the interested people in the internal commercialization of a variety.

## **Control**

- The control function of SAG is carried out by periodic inspections to the establishments that trade seeds, and is extended to ordinary seeds as well as certified seeds with a frequency that permits the verification of the quality characteristics of the seeds especially in the period of time before the sowing.
- The control has as objective the verification that the seed being traded is properly packaged and labeled and if the labels correspond to the established in the norms, which is inspected visually.
- To verify that the seed fulfills with the established requisites (germination, purity, etc.) a sample is taken and analysis of the seed is carried out in the Official Laboratories of SAG.

## **External Trade**

- Imports  
Demanded documentation: Phytosanitary Certificate and ISTA Analysis Certificate (Orange) or Official Certificate of Analysis in the country of origin, or AOSA Certificate only for the indicated species in the modificatory resolution of the 481/91 about prohibited weeds for the importation and trade of seeds.
- Exports  
Phytosanitary Certificate and Certificate of Origin, when the country of destiny requires it, or other additional declarations.

## **The Breeder's Rights In Chile**

The creation of new vegetable varieties is a factor of great incidence in the agricultural development of countries. Obtaining a new variety means, however, a high cost in technical and financial resources as well as in time; due to this reason and to repay the researcher for his investment, the concept of **breeder's rights** has materialized, and the countries have recognized it through the implementation of pertinent legislation.

The breeder's rights for new vegetable varieties is recognized in the country as of 1977 with the passing of the Law N° 1.764 that "states the norms for research, production and commerce of seeds".

Later, with the objective of making equivalent the Chilean legislation with the international norms, as stated in the principles of the International Union for the Protection of Vegetal Obtainments (UPOV), in 1994, Law N° 19.342 was passed. It "Regulates the Rights of the Breeders of New Vegetable Varieties". This new legal body permitted the adhesion of Chile, starting on January 5 of 1996, to the 1978 Act of UPOV constituting the thirteenth country to adhere to this intergovernmental organization.

To this date there are 50 countries members of UPOV.

The adhesion to UPOV has meant counting with legislation and procedures common to the countries advanced in matters related to intellectual property, and also giving equal treatment to national and foreign creators.

### Realm of Protection

- The breeder's right is constituted by the inscription of the variety in the Register of Protected Varieties, which is in charge of the Seeds Department of the Agriculture and Livestock Service (SAG), and the granting of the respective title.
- The Chilean legislation extends the breeder's rights to all vegetable species.
- The protection includes any vegetable structure that serves for the propagation of a given variety (true seeds, cuttings, tubers, buds, etc.)
- The protection extends for a period of 18 years for trees and grapes, and 15 years for the rest of the species.
- The protection is offered to any variety that is:
  1. New (that hasn't been sold in the country for more than a year or abroad for more than six years in the case of trees and grapes, and four years for the rest of the species).
  2. Different: if it can be distinguished for one or more important traits from any other variety notoriously known.
  3. Homogeneous: sufficiently uniform in its pertinent characteristics.
  4. Stable: its essential characteristics keep unaltered after various reproductions or multiplications.
  5. Name: must be different from any denomination that names a preexisting variety of the same botanical or similar species.

### Protection Boundaries

The rights consist of submitting to the exclusive authorization of the breeder the following acts:

- The production of multiplication material of such variety.
- The offer or exposition to sale.
- The sale or any other form of trading.
- The importation.
- The exportation.
- The repeated use of the new variety for the commercial production of another variety.

### Transgressions and Sanctions

- The violations of the breeder's right constitute felonies that are competence of the Criminal Justice.
- SAG, in its function of controlling the commerce of seeds, may order the retention or immobilization of the propagated material of the protected variety that doesn't count with authorization of the breeder.
- SAG can also verify properly based complaints, that would allow to get evidences that can serve the breeder to file the pertinent lawsuit.

Table 1. Species with protected varieties in Chile, up to September 30, 2002,.

Species	Number of varieties	Specie	Number of varieties	Specie	Number of varieties
<u>Agricultural</u>		<u>Fruit</u>		<u>Ornamental</u>	
Alfalfa	1	Cherry	14	Chrysanthemum	9
Rice	1	Plum	24	Ficus	3
Oats	4	Apricot	2	Gypsophila	2
Bluegrass	16	Peach	22	Lilium	57
Barley	4	Strawberry	13	Rose	2
Bean	6	Kiwi	1	<b>Total</b>	<b>73</b>
<i>Hypericum</i>	1	Mandarins	2		
Lentil	1	Apple	22		
Lupine	2	Nectarine	43		
Potato	20	Olive	2		
<i>Holcus</i> Grass	1	Avocado	2		
<i>Dactylis</i> Grass	1	Pear	3		
Quinoa	1	Stocks	3		
White Clover	2	Grape	13		
Pink Clover	3	Interspecific	2		
Subterranean Clover	2	<b>Total</b>	<b>168</b>		
Wheat	27				
Triticale	1				
<b>Total</b>	<b>94</b>				