

Seed and Planting Material Act No. ... of 2013

An Act to protect and regulate the quality of seed and planting materials, to protect the rights of users of seed and planting materials, to formalize the activities and protect the rights of seed and planting material handlers, to develop the seed and planting material industry, to safeguard and conserve the genetic resources of indigenous seed and planting materials important to agriculture, to provide for matters connected therewith or incidental thereto, and to repeal the Seed Act No. 22 of 2003.

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

1. This Act may be cited as Seed and Planting Material Act No. ... of 2013 **Short title**

PART I

APPLICABILITY OF THE ACT

2. No person shall do anything that will contravene the provisions of this Act including import, export, sell, keep for sale, offer to sell, dispose in any manner or supply or exchange with commercial intention of seed and planting materials except in accordance with the provisions of this Act.

PART II

ADMINISTRATION OF THE ACT

3. The Director General of Agriculture (hereinafter in this Act referred to as the “Director-General”) shall be in charge of the general administration of this Act for discharge of the functions assigned or given to him. Director-General so also shall be the appropriate authority responsible for the protection and conservation of genetic resources of both traditional and non-traditional native seeds and plants of agricultural significance. **The Director General of Agriculture shall be responsible for general administration of this Act**
4. (1) The Director-General may delegate, as may be for the purposes necessary, the powers conferred to him by this Act for performance of the duties to the Director in charge of subject of seed certification (hereinafter in this Act referred to as the “Director in charge of the subject”) of the Department of Agriculture and to the Seed and Planting Material Registrar (hereinafter in this Act referred to as the “Registrar”). **The Director in charge of the subject**

(2) (a) For the purposes of this Act, a Seed and Planting Material Registrar shall be appointed. **The Registrar**

(b) The Registrar shall be an officer of the Sri Lanka Agriculture Service with a post-graduate degree on scientific subjects pertaining to Seed Technology and he/she shall be responsible to Director-General and to the Director in charge of the subject.

(3) (a) The Director-General may nominate such number of Assistant Registrars for the purpose of assisting in carrying out the duties of the Registrar. **Nomination of Assistant Registrars**

(b) Every Assistant Registrar may discharge all or part of the powers of the Registrar and while discharging such powers the Assistant Registrar shall be subject to control and command by the Registrar.

(4) The Director-General shall designate such number of officers as may be necessary for the purpose of assisting him in carrying out or giving effect to the provisions of the Act, who shall be referred to as “authorised officers”. **Authorised Officers**

(5) Duties and powers of the Registrar shall be as follows: **Duties and powers of the Registrar**

- (a) Perform the duties assigned by the Director-General and give him full assistance for the successful implementation of the provisions of this Act;
- (b) All duties pertaining to the registering of persons in relation to this Act;
- (c) Coordination among institutes necessary for carrying out the provisions of this Act;
- (d) Assignment, supervision, coordination and regulation of duties of assistant registrars;
- (e) Maintenance of a data base relevant to the provisions of this Act;
- (f) Assisting to implement the other Acts relevant to seeds and planting materials and genetic resources of plants;
- (g) Publication and implementation of the standards, agreements and guidelines adopted by the Seed and Planting Material Technical and Advisory Committee (hereinafter in this Act referred to as “Technical and

Advisory Committee”);

- (h) Coordination and supervision of relevant duties of the authorised officers;
- (i) Inspection of premises of seed and planting material handlers, inspection of relevant information, reports and documents, obtaining samples of seed and planting materials as and when necessary, and carrying out activities related thereto;
- (j) Giving assistance as and when necessary for activities carried out by the Plant Genetic Resources Centre of the Department of Agriculture (hereinafter in this Act referred to as “Plant Genetic Resources Centre”) for protection and conservation of the indigenous traditional seeds and plants of agricultural importance;
- (k) Activities relevant for the confirmation of identity of the seed and planting materials;
- (l) Referring all complaints on seed and planting material to the Director in charge of the subject for investigation and taking necessary action;
- (m) Any other duties assigned by the Director-General for carrying out the provisions of this Act.

(6) When carrying out the duties assigned under this Act, the Director-General, the Director in charge of the subject, the Registrar, the Assistant Registrars and the authorised officers, shall be considered as police officers who discharge the powers under the provisions of the Code of Criminal Procedures.

PART III

SEED AND PLANTING MATERIAL TECHNICAL AND ADVISORY COMMITTEE

5 (1) For the implementation of carrying out or giving effect to the provisions of this Act, there shall be established a Seed and Planting Material Technical and Advisory Committee (hereinafter in this Act referred to as “Technical and Advisory Committee”). This Technical and Advisory Committee shall consist of as follows:-

**Appointment
of Technical
and Advisory
Committee**

- (a) The following *ex-officio* members, namely-
- i. Director General of Agriculture;
 - ii. Directors of the Department of Agriculture in charge of subjects of Seed Certification and Plant Protection, Seed and Planting Material Development, Horticultural Crop Research and Development, Rice Research and Development, Field Crop Research and Development, and Fruit Crop Research and Development;
 - iii. Registrar;
 - iv. Officer-in-Charge of Seed Certification Service;
 - v. Officer-in-Charge of Plant Genetic Resources Centre;
 - vi. Officer-in-Charge of National Plant Quarantine Service;
 - vii. Officer-in-Charge of the Plant Protection Service
 - viii. Chief Executive Officers of research institutes responsible for tea, rubber, coconut and other plantation crops or one representative each of them;
 - ix. Director General of the Department of Export Agriculture or his representative;
 - x. Director General of the Department of National Botanic Gardens or his representative;
 - xi. Conservator-General of Forests of the Forest Department or his representative;
 - xii. Head of the Department of Ayurveda or his representative;
 - xiii. Director General of the Department of Animal Production and Health or his representative;
- (b) Minister in charge of subject of Agriculture may appoint not more than five members among seed technologist, seed pathologist, entomologist, plant pathologist, soil scientist, agriculture engineer, agronomist, genetic engineer, agriculture economist and jurisconsult who are in the service of a Sri Lankan university or a government department or a government research institute and have experience in scientific fields of seed and planting materials and two members among agricultural scientists in the discipline of seed and planting material to represent the handlers or users of seed and planting materials, and such members are

hereinafter in this Act referred as “appointed members of the Technical and Advisory Committee”.

- (c) The registrar shall be the secretary of the Technical and Advisory Committee.
- (d) Meeting of the Technical and Advisory Committee shall be called at least once in six months and the Director-General also has the power of calling at any time a meeting of such committee.
- (e) The Director-General, if present, shall chair every meeting of the Technical and Advisory Committee. If he is not present, a member shall be elected to chair by the members present.
- (f) On special occasions at any meeting of the Technical and Advisory Committee, as the case may be, if expert advice is required, the Director-General may call and obtain the opinion of experts on that subject.
- (g) Any member except the *ex-officio* members shall, unless by death, resignation or removal by the Minister vacates office before the expiry of his term, hold office for a period of three years from the date of appointment to the Technical and Advisory committee. However, any member who is a successor for a vacated member shall, unless due to death, resignation or otherwise vacation of office, hold office for the unexpired period of the term of office of the vacated member.
- (h) The Minister may, by order published in the *Gazette*, remove from office without giving any reason any member except the *ex-officio* members and such removal shall not be questioned in any court of law.
- (i) Any member except the *ex-officio* members vacating office by effluxion of time shall be eligible for re-appointment.
- (j) If a member cannot temporarily execute for a certain period his duties due to illness, being away from Sri Lanka or any other reason, the Minister may appoint for such period another person on behalf of that member.
- (k) Members of the Technical and Advisory Committee

may be paid such remuneration as the Minister may determine in consultation with the Minister in Charge of the subject of Finance.

(2) This Technical and Advisory Committee shall advise and give recommendations to the Director-General, Director in charge of the subject and Registrar on following activities:

**Functions of
the Technical
and Advisory
Committee**

- (a) to prescribe conditions, guidelines and instructions on registration, import, export, production, packaging, storage, selling, transportation, use, permission of varieties/kinds of seed and planting materials and matters connected or incidental thereto, and give advice on other related matters stipulated by the regulations made under this Act;
- (b) to determine the minimum labelling requirements for the seed containers and for planting material, and procedures for prescription of details that must be included in the labels of seed and planting material and for prescription of rules and practice to ensure production of high quality seed and planting materials;
- (c) to determine the quality, minimum size and quantity of the containers suitable for each species, kind or variety of seed and planting materials;
- (d) to determine the suitable conditions and specifications for processing machinery, for storage facilities and during transport of each species, kind or variety of seed and planting materials;
- (e) to determine how a certificate or a report is issued regarding the quality standards of seed and planting materials;
- (f) to determine the procedure for inspection (lay out of field stores, packaging), sampling, analysis, testing and investigation of seed and planting materials;
- (g) to decide the fees payable for work done or services given under the provisions of this Act and the period of validity;
- (h) to determine the procedure for assessing the loss

incurred by the users who have been made to use defective seed and planting materials, for assessing the compensation payable to such users, and for making guidelines and manuals for such actions;

- (i) to determine the standards and resolutions relevant to genetic modification and other new scientific technology applicable to crops of agricultural importance;
- (j) to give other technical assistance for successful implementation of provisions of this Act;
- (k) to establish appropriate minimum limits for germination ability, viability, genetic purity, physical purity and appearance of seed and planting material and maximum limits for genetic impurities, damaged seeds, moisture content and pests (including weed seeds), and also establish the minimum standards for mother plants and planting materials.

(3) In order to perform the duties of the Technical and Advisory Committee, technical and advisory sub-committees can be appointed by the Technical and Advisory Committee.

(4) At the meetings of the Technical and Advisory Committee meetings, the Technical and Advisory Committee can make rules on all or any one of the following:

- (a) Procedure of the meetings of the Technical and Advisory Committee
- (b) Working of the Technical and Advisory Committee
- (c) Continuation of the working of the Technical and Advisory Committee or matters connected therewith or incidental thereto.

PART IV

NATIONAL SEED AND PLANTING MATERIAL ADVISORY COUNCIL

6. (1) For the implementation of the provisions of this Act, there shall be established a Seed and Planting Material Advisory Council (hereinafter in this Act referred to as “Advisory Council”). **Advisory Council**

(2) This Advisory Council shall consist of as follows:-

**Compoision
of the Advisory
Council**

(a) The following *ex-officio* members, namely-

- i. The Secretary of the Ministry of the Minister in charge of the subject of Agriculture (hereinafter in this Act referred to as “the Secretary”)
- ii. Secretary of the Ministry of Finance or his representative
- iii. Secretary of the Ministry of Plantation or his representative
- iv. Secretary of the Ministry of Environment or his representative
- v. Director General of Agriculture
- vi. Director General of Customs or his representative
- vii. Director in charge of subjects of Seed Certification and Plant Protection in the Department of Agriculture
- viii. Director in charge of subject of Seed and Planting Material Development in the Department of Agriculture
- ix. Director General of the Department of Export Agriculture
- x. Director General of the Department of National Botanic Gardens
- xi. Conservator General of the Forest Department
- xii. Head of the Department of Ayurveda
- xiii. President of the Organization of the Agriculture Professionals of Sri Lanka

(b) Minister in charge of the subject of Agriculture may appoint the following members to this Advisory

Council (hereinafter in this Act referred to as “appointed members of the Advisory Council”) –

- i. Three members to represent the academics of an agriculture faculty of the national university system in Sri Lanka with expertise on Seed and Planting Material Technology who do not have any commercial involvement in production, import, export, sale, storage, transport and marketing of seed and planting materials.
- ii. Two members to represent the handlers or users of the seed and planting materials.

(3) The Secretary shall be the chair person of this Advisory Council. Director-General of the Department of Agriculture shall act as the secretary of this Advisory Council.

7. (1) Each appointed member of the Advisory Council shall, unless by resignation or removal or by other means vacates office before the expiry of his term, hold office for a period of three years from the date of appointment to the Advisory Council.

**Term of office
of the
appointed
members**

(2) At any time, any appointed member of the Advisory Council may resign from office by submitting a letter to the Minister and such resignation will become effective when the Minister accept such resignation.

(3) If any appointed member of the Advisory Council cannot temporarily execute for a certain period his duties due to illness, being away from Sri Lanka or any other reason, the Minister may appoint for such period another person on behalf of that member.

(4) The Minister may remove from office any appointed member of the Advisory Council without giving any reason. Then such member shall be considered as a person who has vacated the office. Such removal shall not be questioned in any court of law.

(5) When any appointed member of the Advisory Council vacates office by resignation, removal or any other means, Minister may, on behalf of such member, appoint another person to the Advisory Council. However, any member who is a successor for a vacated member shall hold office for the unexpired period of the term of office of the vacated member.

(6) A meeting of the Advisory Council shall be called at least once in six months and the Secretary also has the power of calling at any time a meeting of such Advisory Council.

8. A person who has been insane, deranged, bankrupt, found guilty in a Court of Law for criminal offense or for immoral behaviour, either before or after appointment to the Advisory Council, shall become disqualified for holding office of such Advisory Council.

9. (1) All decisions of the council shall be adopted by majority.

**Decisions of the
Advisory
Council**

(2) Decisions taken during the vacation of office of any or all appointed members of the Advisory Council due to death, resignation, removal or not being appointed shall not be nullified or cancelled due to such vacation.

(3) Members of the Advisory Council may be paid such remuneration as the Minister may determine in consultation with the minister in charge of the subject of Finance.

(4) In accordance with the provisions of this Act or any regulation or regulations made thereunder, the Advisory Council can formalize their meetings and the procedure for conducting such meetings.

10. The Advisory Council has the powers and responsibilities to take decisions and implement required procedures

**Powers and
functions of the
Advisory
Council**

(1) to consolidate the welfare of the people and food security, formulate the policies relevant for handling good quality seed and planting materials;

(2) to co-ordinate with public sector agencies in working towards the development of the private sector seed and planting material industry and to address issues related to seeds and planting materials;

(3) to secure funding and man power resources required to develop a viable seed and planting material industry; and

(4) (a) to provide facilities for the conservation of indigenous, traditional and improved seed and plant genetic resources;

(b) to provide technical facilities required for confirmation of genetic purity of recommended crops/varieties and those cultivated by farmers; and

(c) to provide facilities for identification of genetically

modified crops/varieties

PART V

REGISTRATION PROCEDURE

- 11.** (1) All seed and planting material handlers shall register and obtain a certificate under the provisions of this Act. **Registration of seed and planting material handlers**
- (2) (a) Every application for registration shall be made according to the specimen application form and shall be submitted accompanied by the registration fee to the Registrar.
- (b) Upon application for registration mentioned above, if the Registrar is satisfied that the applicant has fulfilled all the qualifications determined from time to time by the Director-General, the Registrar shall issue a certificate of registration to the applicant under certain rules and conditions.
- (c) If the Registrar is not so satisfied about the fulfillment of the required qualifications by the applicant, the registrar shall refuse the relevant request.
- (d) It shall be lawful to reject a request for registration with the view of safeguarding the public peace and morality, protecting human, animal and plant life and sanitation, and of avoiding damage to the environment by preventing its commercial exploitation.
- (e) It shall be lawful to reject a request for registration if such application concerns seed and planting material that could be harmful or have a potential or technology to be harmful to agriculture, environment, society or economy of Sri Lanka.
- (f) The certificate of registration shall be valid for two years unless cancelled before the expiry.
- (3) No person shall import into or export from Sri Lanka, or carry

out activities pertaining to a seed handler, otherwise than in accordance with the authority of a certificate of registration issued under the provisions of this Act and under the terms and conditions stipulated therein and under the plant protection laws and rules of Sri Lanka.

(4) One month before the expiry of the registration and certificate of registration issued under the paragraph (1) above, the holder of such registration and certification shall submit an application with the prescribed fee to the Registrar for renewal of registration. The Registrar has the full discretion for granting such extension.

(5) In an event that the relevant person is unable to renew the registration on due date, the registration may be renewed on relevant request after paying the fees for renewal of registration and additional charges prescribed by the Technical and Advisory Committee.

(6) It shall be the responsibility of the person who has obtained a certificate of registration under the paragraph (b) of subsection (2) above –

- (a) to keep records and data on all matters related to handling of seed and planting material and;
- (b) to submit such records and data for inspection when the Director-General, the Director in charge of the subject, the Registrar, Assistant Registrars and authorised officers, as the case may be, request.

12. (1) If any seed and planting material handler –

Cancellation of registration

- (a) has contravened any term or condition subject to which the relevant registration has been granted;
- (b) has failed to carry out any directions given along with such registration; and
- (c) has committed any offence under this Act or any regulation made thereunder;

the Registrar shall cancel the registration issued to such seed and planting material handler. Notice of such cancellation shall be communicated in writing to the relevant seed and planting material handler.

(2) Any person aggrieved by a decision of the Registrar pertaining to –

- (a) refusal to grant registration;
- (b) refusal to renew a registration; or

- (c) cancellation of a registration

may submit within seven days of communication of such decision to him an appeal in writing giving reasons against the said decision to the Secretary of the Ministry of the Minister in charge of subject of agriculture under the provisions of the section 19 hereto. A decision on the said appeal shall be taken by the Appeals Panel established under the provisions of the section 19 hereto.

PART VI

PROCEDURE

13. (1) For carrying out the duties and powers vested on them by the provisions of this Act or by the regulations made thereunder, it shall be lawful for the Director-General, the Director in charge of the subject, the Registrar, Assistant Registrars or authorised officers, after showing their identity, –

Entry on premises, inspection, taking samples etc.

- (a) having reasonable grounds therefor, to enter with or without assistants, at all reasonable times, upon any premises where seed and planting materials are produced, kept, stored, sold or stored for sale for the purpose of inspecting and examining such seed and planting materials found therein and any material used or to be used for production, keeping or storage of such seed and planting materials and to take samples of such seed and planting materials for examination and testing;
- (b) having reasonable grounds therefor, to stop and detain for the purpose of inspection any vehicle transporting any seed and planting material, and to inspect and examine such vehicle and to take samples from any seed and planting material found therein or thereon;
- (c) having reasonable grounds therefor, to open and inspect any container, package or store containing any seed and planting material;
- (d) to inspect any books, documents, letters, shipping invoices and manifests, bills of lading or other reports and documents containing information relevant to seed and planting material found in relevant premises, and to

- obtain copies or abstracts of such books, documents, letters, shipping invoices and manifests, bills of lading or other reports and documents;
- (e) having reasonable grounds therefor, to seize and detain for a time period necessary, of seed and planting material that has been the subject to violation of this Act or any regulation made thereunder;
- (f) to inspect any advertisement or advertisements, leaflet or leaflets, label or labels and to take copies of such labels, advertisements or leaflets;
- (g) to seize and detain any books, documents, other reports or material or any such books, documents, other reports or material that may be necessary for submission as supporting evidence to show that a person has committed an offence against this Act or regulations made thereunder;
- (h) if deemed as required for inspection, to open any container, can or holder of seed and planting material or to open the doors in front of the owner or keeper of any stores or location where seed and planting material are stored or to force open the doors of such stores or location when the owner or keeper refuses to open such doors; and
- (i) to carry out any other action or work if deemed to as required to fulfill the provisions of this Act or regulations made thereunder.

(2) When requested by Director-General, Director in charge of the subject, Registrar, Assistant Registrars or authorised officers for the performance of their duties or for the execution of their powers in accordance with the subsection (1) above, it shall be the duty and responsibility of the owner, occupier, keeper or their representative of the premises, as the case may be, to provide or afford or cause to be provided or afforded all reasonable facilities and support, relevant information and required samples.

(3) In the event that Director-General, Director in charge of the subject, Registrar, Assistant Registrars or authorised officers suspect some problems on seed and planting material especially their condition in respect of provisions of this Act or regulations made thereunder or receive any complaint relevant to seed and planting material, it is lawful for them to enter any premises at all reasonable times and carry out measures as given in subsection (1) above, and it is the duty and responsibility of the owner, occupier, keeper

For inspection during complaints and special occasions, entry into premises,

of such premises or their representative as the case may be to afford and give or cause to afford or give all reasonable facilities and support, provide or cause to provide the information and help in obtaining the required samples. **testing, sampling etc.**

(4) The samples of seed and planting materials taken for purposes of this Act or regulations made thereunder shall be divided into three equal parts and shall be labelled and sealed in front of the owner, occupier, keeper or their representative of such premises as the case may be. One part of the sample shall be given to the seed handler, another part shall be given to the seed laboratory and the remaining part shall be given to the Registrar.

(5) It is the duty of the officer-in-charge of the relevant laboratory to analyse the sample and to submit the results to the officer who gave the sample, and the Registrar shall store the sample given to him under required standard conditions.

(6) In the event that there is a dispute over the results of the analysis done on a sample, the Registrar shall send the sample stored under standard conditions and kept under his custody to the officer-in-charge of the designated laboratory named by the Director-General.

(7) During any litigation under this Act, a certificate signed by an authorised officer or a designated officer regarding any sample obtained for testing under this section shall be accepted as *prima facie* evidence for the matters connected thereto.

(8) After inspection, examination and testing referred to in subsections (1) and (3) above, if the Director-General, the Director in charge of the subject, Registrar, Assistant Registrar or the authorised officer as the case may be is satisfied that any seed and planting material stored or offered for sale at any premises is in contravention of the provisions of this Act or any regulation made thereunder or is not in conformity with the standards prescribed by the Technical and Advisory Council, the Director-General, the Director in charge of the subject, Registrar, Assistant Registrar or the authorised officer as the case may be shall communicate his decision, in writing with the reasons therefor to the handler, and direct such handler of such seed and planting material to carry out measures or execute work in relation to such seed and planting material as may be specified in such direction.

(9) It shall be the duty of the handler, to comply with any direction made by the Director-General, the Director in charge of the subject, the Registrar, any Assistant Registrar or any authorised officer as the case may be under subsection (8) above, unless such handler prefers an appeal against such direction to the Secretary under the provisions of the section 19 hereto.

(10) Where an appeal is made, and until such time the decision on

the appeal is communicated, the appellant or his representative shall not sell, offered for sale or dispose in any manner of such relevant seed and planting material for which the appeal has been made, and the Director-General, the Director in charge of the subject, the Registrar, any Assistant Registrar or any authorised officer as the case may be has the power to seal such seed and planting material consignment or lot until such time the decision of the appeal is received.

(11) During instances other than complaints or special occasions, for investigating the quality of seed and planting materials or for formalizing the activities of handlers of seed and planting material, if the Director-General, Director in charge of the subject, the Registrar, any Assistant Registrar or any authorised officer as the case may be decides to take samples from seed and planting materials, such Director-General, Director in charge of the subject, the Registrar, any Assistant Registrar or any authorised officer, as the case may be, shall have the power to enter at all reasonable time to any premises where seed and planting material is kept and take samples following standard procedures from such seed and planting materials.

For inspection during instances other than complaints and special occasions, entry into premises, testing, sampling etc.

(12) Where the tests or analytical reports of the samples obtained in accordance with the provisions of the subsection (11) above is found to be inconsistent with the standards prescribed under this Act or regulations made thereunder, it shall be lawful to order the prohibition of sale or the destruction of such seed and planting material or to take any other suitable action in accordance with the provisions of this Act.

(13) It shall be the duty of the handlers of seed and planting material to get their seed and planting material tested, within the time period stipulated by the Director-General, in order to ascertain that the quality of such seed and planting material offered for sale are in conformity with the minimum standards prescribed by the Technical and Advisory Committee.

(14) Information obtained under the provisions of the paragraph (d) of subsection (1) above shall not be divulged to any party other than to a government department or to a Court of Law as and when required for the administration or carrying out provisions of this Act.

(15) No person shall remove, alter, tamper or intervene in any form the seed and planting material sealed by the Director-General, Director in charge of the subject, the Registrar, any Assistant Registrar or any authorised officer without the permission of such Director-General, Director in charge of the subject, the Registrar, the Assistant Registrar or the authorised officer as the case may be.

14. Neither the Director-General nor the Director in charge of the subject or the Registrar or any Assistant Registrar or any authorised officer or any

Director-General,

person assisting them shall be deemed as a trespasser by reason of entry into any premises or action taken or thing done including disposal, export, destruction or diverting for another action of any material under the provisions of this Act or any regulation made thereunder, or be liable to any damages or prosecution by reason of anything done or omitted to be done in carrying out any of the provisions of this Act or of any regulation made thereunder, unless the same was done or omitted to be done by him, *malafide* and without reasonable and probable cause.

Director in charge of the subject, Registrar, Assistant Registrars or authorised officers or person assisting them not to be deemed trespasser by reason of entry etc.

15. (1) Importation of seed and planting material shall not be permitted unless the Director-General is satisfied in advance with the procedure for affirming the standards of seed and planting material in the relevant country.

Import/export prohibition or re-export

(2) Prior to permitting the importation of any new variety of seed and planting material for commercial purposes, the Director-General shall advise the officials of the relevant sectors to test such seed and planting material for their agricultural, environmental, socio-economic impact and other usefulness and, unless proved by such tests as suitable, the importation of such seed and planting material for commercial purposes shall not be permitted.

(3) No person shall export any seed and planting material from Sri Lanka unless he has obtained a valid permission for that purpose from the Director-General after taking into consideration the agricultural necessity and food security of Sri Lanka.

(4) Until the conclusion of any test, investigation, analysis, search for information or law suit under the provisions of this Act or regulations made thereunder, it shall be lawful for the Director-General to take appropriate action to achieve the objectives of this Act.

(5) Based on any test or analytical report, the Director-General has the power under this Act to prohibit the importation or introduction into any premises within Sri Lanka or to prohibit the distribution, storage, transportation or sale in Sri Lanka of any seed and planting material.

(6) The Director-General has the power under this Act to order or direct the re-exportation, destruction or disposal in an appropriate manner deemed suitable by him the seed and planting material prohibited under the

provisions of the subsection (5) above.

16. (1) Where any handler of any seed or palnting material or the owner or occupier of any premises is required or directed under subsection (8) of section **13** above to carry out any measures or to execute any work in relation to any seed or palnting material in or upon any premises, and if such person fails, neglects, or refuses to comply with such requirement or direction, the Director-General, the Director in charge of the subject, the Registrar, the Assistant Registrar or any authorised officer with or without assistants may enter such premises for the purpose of carrying out such measures or executing such work.

**Power of the
the Director-
General, the
Director in
charge of the
subject, the
Registrar, the
Assistant
Registrar or
authorised
officer to carry
out measures
or execute
work and
recover the
expenses
thereof**

(2) The Director-General, the Director in charge of the subject, the Registrar, the Assistant Registrar or an authorised officer entering any premises under subsection (1) above may take with him such assistants, equipment, machinery and vehicles as is or are necessary for the purpose of facilitating the exercise of his powers.

(3) All reasonable expenses incurred by the Director-General, the Director in charge of the subject, the Registrar, any Assistant Registrar or any authorised officer for the purpose of carrying out any measures or executing any work in or upon any premises under the subsection (1) above and any expenses incurred by the State shall be payable by the person who was required or directed under subsection (8) of section **13** above to carry out such measures or execute such work, and may be recovered from that person in the manner hereinafter provided.

(4) All reasonable expenses payable by any person inclusive of all expenses incurred by the State in this regard under subsection (3) above may be payed by such person to the Director-General, and in the event such person is not paying the amount due from him, such amount may be recovered upon application made by the Director-General or by any authorised officer authorised on that behalf by the Director-General to the Magistrate's Court within whose jurisdiction such person is resident or the measures were carried out or the work was executed in like manner as a fine imposed by that Court, notwithstanding that the amount of such expenses may exceed the amount of the fine which such Court may in the exercise of its ordinary jurisdiction impose.

(5) The recovery of expenses from any person under subsection (4) above shall not relieve such person from any prosecution for any offence to which he may be liable by reason of his failure, neglect or refusal to comply with the requirement or the direction made under the provisions of this Act or regulations made thereunder.

PART VII

SEED AND PLANTING MATERIAL CERTIFICATION SERVICE

17. (1) For the purposes of this Act, the Director-General shall from time to time publish types and varieties of crops that shall compulsorily be subject to seed and planting material certification.

(2) The certification of seed and planting material in Sri Lanka shall be done by the Seed Certification Service of the Department of Agriculture and the Director in Charge of the subject shall exercise the exclusive right to certify seed and planting material in Sri Lanka. As and when required Director in Charge of the subject may obtain the services of the Registrar, Assistant Registrars, authorised officers or any person with technical expertise in a relevant government institution to carry out or giving effect to the procedures of certification of seed and planting material.

Exclusive right of the Director in charge of the subject for certification of seed and planting material in Sri Lanka

(3) Following activities under the provisions of this act shall be carried out under the supervision of the Director in charge of the subject:

Duties of the Director in charge of the subject

- (a) Issue of seals, stickers, stamps and labels with the mark or seal of the Seed Certification Service;
- (b) Prohibition of any locally produced seed of any crop variety or hybrid from being described as “**certified seed**” and also sold as “**certified seed**” of that crop variety or hybrid if it has not been produced in accordance with the rules, standards and guidelines published and administered by the Department of Agriculture for the production of certified seed.
- (c) Concerning the imported seed and planting material, prohibition of any crop variety or hybrid from being described as “**certified seed**” and also sold as “**certified seed**” of that crop variety or hybrid unless

the Seed Certification Service of the Department of Agriculture has accepted the official seed certification procedure of the country of origin of the such seed and planting material;

- (d) In respect of any seed that has been imported in bulk and then repacked or repackaged for the purpose of supplying to the local market, prohibition of sale or supplying for sale of such seed, unless the Seed Certification Service of the Department of Agriculture has sampled from that lot, tested and proved that such seeds are in conformity with the standards prescribed by the Department of Agriculture
- (e) Inspection and monitoring of the production and processing of seed and planting materials intended to be certified, and checking that the standards and specifications of such seed and planting materials conform to the seed certification standards;
- (f) Carrying out inspection and testing procedures after entry into all pertinent premises from the field of the producer until the seed and planting material reach the user.
- (g) Checking the documents related to movement and identity of seed and planting material, taking samples of locally produced and imported seed and planting material, and check whether such seed and planting material conforms to the required standards;
- (h) Adoption of an approved procedure during field inspection, testing of seed and planting material, processing of seed and planting material, taking samples of seed and planting material, and placing labels for the seed and planting material lots eligible for certification;
- (i) Ensuring that the certified seed and planting material are packed, sealed and labelled in the prescribed manner;
- (j) Maintenance and publication of a list of producers and suppliers of certified seed and planting materials
- (k) Giving necessary assistance for the protection of local traditional plant genatic resources important for agriculture; and

(1) Taking necessary actions on all complaints relevant to seed and planting materials referred by the Registrar.

(4) For the purposes of this Act, the seed testing laboratories and post control fields shall be considered as the official testing laboratories and post control fields respectively.

(5) Conditions, facilities and standards of the laboratories established for the testing of quality of seed and planting materials for the purpose of achieving the objectives of this Act shall be published from time to time by the Director-General. When a request is made to accept a particular laboratory, which has fulfilled all relevant criteria, the Director-General has the discretion to decide such laboratory as a recognized laboratory for the purpose of testing the quality of seed and planting materials.

(6) During the release of new varieties relevant for agriculture, it shall be done in accordance with the criteria adopted by the varietal release committee of the Department of Agriculture and also in accordance with the rules and regulations pertaining to the protection of new plant varieties, and the Director-General shall maintain a list of officially released new plant varieties.

(7) Powers conferred to the Director in charge of the subject in relation to the activities for certification of seed and planting materials can be delegated to the Officials of the Government institutes responsible for certain agricultural crops and other plantation crops. In this regard, such officials shall carry out the certification procedures in accordance with the standards and guidelines prescribed by the Technical and Advisory Committee and shall submit to the Director in charge of the subject the relevant details and reports.

Delegation of powers of the Director in charge of the subject in relation to the certification seed and planting materials

PART VIII

PROTECTION OF INDIGENOUS TRADITIONAL PLANT GENETIC RESOURCES IMPORTANT FOR AGRICULTURE

18. (1) For the purposes of this Act, the Director-General shall exercise through the Plant Genetic Resources Centre of the Department of Agriculture the exclusive right and responsibility for *ex-situ* conservation and maintenance of plant genetic resources important for Agriculture in Sri Lanka.

Exchange, importation or exportation of plant genetic resources

(2) No person shall exchange, import, export, disposal or handover

any plant genetic resources important to agriculture or engage in any matters connected or incidental thereto unless he has obtained from the Director-General permission in writing to do so.

(3) Rules and guidelines to confirm the identity of traditional agricultural crop varieties and of crop varieties important to agriculture maintained by the farmers shall be prepared by the varietal release committee and they shall be published by the Director-General.

PART IX

APPEALS

19. (1) For the purposes of this Act, an Appeals Panel shall be appointed by the Secretary. The Appeals Panel so appointed for three years and inclusive of Seed Technologist, Seed Pathologist, Entomologist, Plant Pathologist, Soil Scientist, Agricultural Engineer, Agronomist, Gene Technologist and Agricultural Economist shall be published in the gazette. For adjudication of an appeal, it shall be referred to a committee of three persons selected from the Appeals Panel. **Appeals**

(2) Any person aggrieved by a decision of the Director in charge of the subject, the Registrar, an Assistant Registrar or an authorised officer taken in accordance with the subsection (2) of section 12 or subsection (9) of section 13 of this Act may submit a written appeal to the Secretary against such decision not later than seven days from the date such decision was communicated to such person and the appeal shall include reasons therefor.

(3) After the receipt of an appeal, if the Secretary is satisfied that there are reasons to consider the appeal, the Secretary shall order the appellant to credit in the name of the Director-General a monetary deposit in the form of a bank draft or a money order for an amount as specified by the Secretary.

(4) After the receipt in support of the payment, the Secretary shall inform the appellant, the Director-General, and the Director in charge of the subject, the Registrar, the Assistant Registrar or the authorised officer who has given the decision against which the appeal is made that he has accepted an appeal against such decision and shall instruct the relevant officials to suspend any further actions related to such decision against which the appeal is made. The Secretary shall appoint within three days of the acceptance of the appeal a suitable committee to consider the appeal. The committee so appointed shall consider the appeal within a reasonable time and shall submit within a minimum period of time its conclusions and recommendations to the Secretary. The Secretary shall decide what is meant by the reasonable time depending on the nature of the appeal.

(5) The decision of the Appeal Committee shall be final and conclusive and shall be communicated immediately by the Secretary to the Appellant and to the Director-General or the Registrar. Only if the decision of the Director in charge of the subject, the Registrar, an Assistant Registrar or an authorised officer as the case may be is rejected by the decision of the Appeal Committee, the monetary deposit made by the appellant will be refunded.

(6) Members of the Appeals Panel may be paid such remuneration as the Minister may determine in consultation with the Minister in charge of the subject of Finance.

PART X

OFFENCES AND PENALTIES

20. (1) Every person who, without lawful authority or excuse contravenes any provision of this Act or any regulation made thereunder, or does or omits to do anything which under the provisions of this Act or of regulations made thereunder he ought not to do or he ought not omit to do, or resists or obstructs or assists in resisting or obstructing, or incites any person to resist or obstruct the Director-General, the Director in charge of the subject, the Registrar, any Assistant Registrar, any authorised officer or any person assisting them in the implementation of any provisions of this Act or any regulation made thereunder, shall be guilty of an offence under this Act.

Offences and penalties

(2) Failure to give information, giving wrong information orally or in writing, hiding information, supply of wrong reports or data, publication of advertisements that can mislead the general public, resisting or not allowing to obtain the relevant samples that are required by the Director-General, the Director in charge of the subject, the Registrar, any Assistant Registrar or any authorised officer for implementation of the provisions of this Act or the regulations made thereunder and obstructing, opposing, objecting or blocking the Director-General, the Director in charge of the subject, the Registrar, any Assistant Registrar or any authorised officer during implementation of the provisions of this Act or the regulations made thereunder shall be an offence under this Act.

(3) It is proposed to make a procedure for levying fines for minor offences without going to Courts.

(4) Any person who is guilty of an offence under this Act shall be liable on conviction before a Magistrate after summary trial to imprisonment of either description to a term not less than one month and not exceeding six

months, or to a fine not less than fifty thousand rupees, or to both such fine and imprisonment. On the successive occasion, the penalty shall be doubled with cancellation of registration for five years, and on the third occasion, the penalty shall be three fold with cancellation of registration and blacklisting, and measures shall be taken to publish it in all three languages in national newspapers.

(5) Any person who, under the pretence of performing any activity under the authority of this Act or of any regulation made thereunder commits any unnecessary violence or causes any unnecessary annoyance shall be guilty of an offence under this Act.

(6) (a) Any person who imports, produces, processes, distributes, stores or puts in the market for sale any defective seed and planting materials shall bear responsibility for the loss incurred due to such seed and planting materials, and such loss shall be re-imbursed by that person to the user of such seed and planting materials in accordance with the guidelines prescribed by the Technical and Advisory Committee.

(b) Whereas the offence was in relation to the imported seed and planting materials and the Director-Genreral is satisfied that the incidence has created a loss to the economy of the country or any other harm, until the conclusion of any test, investigation or legal action, the involvement, directly or indirectly, of the particular importer, his spouse, his successor or any of his representatives in the importation or local sale of seed and planting materials of the relevant crop variety shall be suspended. Also, the relevant stocks of seed and planting material shall not be sold or offered for sale until the conclusion of the test, investigation or legal action. The relevant stocks of seed and planting material shall be sealed. Also, the loss incurred shall be assessed according to the guidelines prescribed by the Technical and Advisory Committee and reimbursements for monetary loss shall be paid to the users of the relevant seed and planting materials.

(7) Whereas the offence was in relation to seed and planting materials of a local variety/kind, until the conclusion of the relevant test, investigation or legal action, relevant stocks of the seed and planting materials shall not be sold or offered for sale. Such relevant stocks of the seed and planting materials shall be sealed. Also the loss incurred shall be assessed and measures shall be taken to recover the monetary loss.

- (8) (a) Whereas it is established that seed and planting materials has been brought into any location in Sri Lanka illegally or against the provisions of this Act or regulations made thereunder, the relevant stocks of the seed and planting materials shall be sealed and, without paying any compensation, the relevant stocks of the seed and planting materials shall be destroyed at the expense of the particular person who has brought the seed and planting materials.
- (b) Any person, who do not act or refuses, defaults to act in accordance with any direction or order made under the provisions of the paragraph (a) above, such person shall not be exempted from legal action for an offence.

(9) Any vehicle or carrier or other instrument, contrivance, appliance, or thing used in or in connection with the commission of an offence against this Act shall, by reason of that conviction, be forfeited to the state.

(10) Where an offence against this Act has been committed by a body of persons then :-

- (a) if that body of persons is a body corporate, every director, manager, secretary, or other similar officer of that body corporate; or
- (b) if that body of persons is a firm or a business enterprise, every partner or every manager of that firm or business enterprise; -
- (c) shall individually or collectively be guilty of that offence unless such person proves that the offence was committed without his consent or concurrence and that he has exercised all due diligence to prevent the commission of such offence. All persons shall bear individually and collectively the responsibility for the omission of such offence.

PART XI

MAKING OF REGULATIONS

21. (1) The Minister in charge of subject of agriculture may make **Regulations** regulations in respect of any matter required by this Act to be prescribed or in

respect of which regulations are required or are authorised to be made by this Act.

(2) In particular and without prejudice to the generality of powers conferred by subsection (1) above, the Minister in charge of subject of agriculture may make regulations on the following matters :-

- (a) Registration, refusal of registration, renewal of registration and cancellation of registration of all handlers of seed and planting materials or any matters connected or incidental thereto;
- (b) The minimum qualifications and eligibility of the handlers of seed and planting materials required for their registration;
- (c) The determination of fees to be charged in respect of any services and facilities provided under the provisions of this Act;
- (d) For formulation of standards required for handling of seed and planting materials;
- (e) For formalizing the activities of the handlers of seed and planting materials;
- (f) The procedure for the import and export of seed and planting materials;
- (g) The procedure for maintaining fair prices for seed and planting materials;
- (h) The updating of specifications in relation to the regulated species, kind and varieties of seed and planting materials;
- (i) To stipulate provisions relevant to testing and evaluations important for the protection of plant varieties and rights of plant breeders;
- (j) The procedures for the protection of traditional plant genetic resources important for agriculture, the provisions related to importation, exportation and exchange of plant genetic resources and protection of rights of the farmers;
- (k) the powers and functional procedures of the authorised officers;

- (l) The procedures related to certification of seed and planting materials;
- (m) The standards and facilities necessary for seed testing laboratories and post control fields;
- (n) The procedure for recovery of loss due to use of defective seed and planting materials.

(3) Every regulation made under the subsections (1) and (2) above shall be published in the Gazette and shall come into operation on the date of such publication or upon such later date as may be specified in the regulation,

(4) Every regulation made under this Act shall have the same force and effect as if they are contained in this Act.

(5) Every regulation made under subsections (1) and (2) above shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed rescinded from the date of its disapproval but without prejudice to anything previously done thereunder.

(6) When any regulation is deemed rescinded with effect from a particular date under the subsection (5) above, a notification of such date shall be published in the Gazette.

22. Regarding any matter for which this Act has given powers to make rules, the Director-General may make rules.

23. No provisions in this Act shall apply to any seed or planting material of any kind or variety grown by a person and exchanged, bartered or delivered, by him on his own premises direct to another person without any commercial interest, for being used by that other person for the purpose of sowing or planting.

**Non-
applicability of
the Act**

24. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

**Sinhala text to
prevail in case
of
inconsistency**

PART XII

INTERPRETATION

25. In this Act, unless the context otherwise requires –

Interpretation

“**certified seed**” means breeder seed, foundation seed, registered seed, pre-basic seed, basic seed, standard seed, nucleus seed, or seeds of any other group produced in accordance with the standards and procedures specified in section 17 of this Act and labelled as “certified seed”;

“**importer**” means any person by whose act any seed or planting material has been landed in or entered into Sri Lanka;

“**exporter**” means any person who has taken any seed and planting materials out of Sri Lanka or by whose action any seed and planting material are to be taken out of Sri Lanka;

“**premises**” means any land, water reservoir, building, establishment, stores, market place, freight container, transport vehicle, conveyance or vessel, aircraft, or any other mode of transport wholly or partially used for keeping, storing, processing, conditioning, transplanting, or multiplying of seed and planting materials, or any area used for keeping seed and planting materials for planting, processing, packing, packaging or storing, or any other space that can be used for such purposes;

“**pest**” means any biotic agent capable of causing injury or damage or loss to plants or plant products and shall include weeds;

“**user**” means any person who, either himself or by some other person, cultivates seed and planting material using a growing medium; but, this meaning shall not include any independent company, trader or dealer or distributor who sells or supplies seed or planting materials on a commercial basis;

“**regulated**” means accepted by regulations;

“**secretary**” means Secretary to the Ministry of the Minister in charge of the subject of Agriculture;

“**seed and planting material**” means –

- (1) any mature part of a plant containing an embryo that is with germination ready to give rise to a plant;
- (2) tuber, bulb, bulbil, rhizome, corm, runner, sucker, twig that by rooting give rise to a plant, part of a root, plant leaf, tissue cultured plant, budded plant, or any other part of a plant;
- (3) any other material that can be used to give rise to a plant and that does not belong to groups (1) and (2) above;

“**seed and planting material handler**” means any person, who as producer, importer, exporter, distributor, processor, repackager, owner of seed and planting material store, agent, wholesaler, retailer, one transporting seed and planting materials, or salesman in motion, is responsible for causing seed and planting material to be placed in the market in Sri Lanka or in foreign market, or his agent bestowed with rights or empowered by law.

“**seed lot or planting material lot**” means a definite quantity of seed or planting materials identified by a lot number, every portion or bag of which is uniform, within permitted tolerance for the factors which is given on the label;

“**variety**” means a plant grouping within a single taxon of the lowest rank including transgenies which can be distinctly differentiated from another of the same kind by at least one characteristic recognizable with the naked eye and is sufficiently uniform and stable after repeated propagation;

“**genetically modified**” means derived from any activity, where that activity has involved or resulted in the formation or derivation of new combinations of heritable material by the insertion of nucleus acid molecules, produced by whatever means outside the cell, into any virus, bacterial plasmid, or other vector system so as to allow their incorporation into an alien organism in which they do not naturally occur to make another alien organism in which they are capable of continued propagation;

“**plant genetic resources centre**” means the institute established within the Department of Agriculture for *ex-situ* conservation of plant genetic resources;

“**preventive measure**” means fumigation, destruction, or any other seed treatment activity, as the case may be, prescribed by the authorised officer;

“**designated laboratory**” means a laboratory in which tests necessary for the arrival of a certain scientific decision can be done correctly to the satisfaction of the Director-General

“**new varietal release committee**” means a committee appointed by the Director-General consisting of persons with expertise in scientific disciplines for the confirmation of suitability for cultivation of certain seed and planting material obtained from breeding or obtained as a result of any other scientific technology;

“**storage conditions**” means the standards prescribed by the seed and planting material technical and advisory committee in respect of criteria that should be adopted during storage of seed and planting materials;

“**kind**” means a crop, belonging to any crop species or subspecies, individually or collectively identified by a common name

“**minor offences**” means