

Table 8: Prohibition on the sale of uncertified seed

Regulation 24 of Government Notice Nr R.1064 stipulates that seed of the varieties listed on Table 8 of the Act, may only be sold if such seed has been certified in terms of the SA Seed Certification Scheme. Only those varieties of which the genetic characteristics will degenerate in the absence of good control, will be considered for listing.

SANSOR, the Authority designated by the Minister of Agriculture for the execution and administering of the SA Seed Certification Scheme, handles application for listing, after which it will be forwarded with recommendations to the Registrar of Plant Improvement who shall make a final decision whether the variety concerned will be taken up in the table.

The procedure for listing of varieties on Table 8 of the Act is as follows:

1 Application for listing

1.1 Requirements for applicants

The following persons may apply to have a variety listed on Table 8:

- 1.1.1 The local owner of the variety.
- 1.1.2 The local licence holder or agent having written approval from the foreign owner.
- 1.1.3 Any person can apply in the case of public varieties, including public varieties from foreign countries.
- 1.1.4 Approval must be obtained from the party that originally applied for variety listing, in the case of public varieties from foreign countries.

1.2 Requirements for varieties

Varieties shall only be considered for listing if they meet the following requirements:

- 1.2.1 The stipulations of the Plant Improvement Act must be declared applicable to the kind of plant to which the variety belongs.
- 1.2.2 Only varieties already on the variety list or submitted for listing, shall qualify. It is possible to also list varieties intended for special export where the seed has been imported for multiplication and re-export.
- 1.2.3 It is not a requirement that the variety must be protected under Plant Breeders' Rights.
- 1.2.4 The kind of plant to which the variety belongs must be available for certification according to the SA Seed Certification Scheme, in other words, there must already exist an Annex according to which the specific certification requirements are set out.

1.3 Procedure for application

The application for listing of a variety must be submitted at SANSOR in Pretoria and must be accompanied by the following:

- 1.3.1 A fully completed prescribed application form available from the Authority;
- 1.3.2 A technical description of the variety;
- 1.3.3 Prove of ownership, licence, sole agency, powers, and Plant Breeders Rights number, whichever applicable;

- 1.3.4 Justification for listing in respect of genetic characteristics that will require controlled production;
- 1.3.5 The prescribed Administration fee payable to SANSOR. Presently (2012) this amounts to R 300.00 + R 42.00 VAT = R 342.00 per variety; and

Any person can commence with production of basic seed if they have acceptable pre-basic seed, in the case of public varieties where there is no sole rights on breeder seed. This source of pre-basic seed, however, needs to be evaluated by SANSOR beforehand. SANSOR may assign maintainers of breeder or pre-basic seed in certain cases.

2 Requirements for continued listing

The following requirements must be complied with in order to retain a variety on the Table 8 list:

- 2.1 No legal objections against listing of the variety must have been recorded.
- 2.2 The variety must still comply with the original description.
- 2.3 Breeder, pre-basic and basic seed must be maintained.

In the case of public varieties it is recommended where breeder or pre-basic seed is made available to other parties, that the price should not be more than three times the price of certified seed, and in the case of basic seed, not more than two times the price of certified seed.

3 Sale of uncertified listed varieties

The Registrar may grant permission in certain cases that uncertified seed of listed varieties may be sold. These temporary exemptions shall only be considered if:

- 3.1 Available supplies of certified seed are inadequate;
- 3.2 Written application has been done to SANSOR for recommendation to the Registrar;
- 3.3 The application is accompanied with the following information:
 - 3.3.1 Information on where inquiries have been done in respect of availability of certified seed of the variety concerned;
 - 3.3.2 The number of containers and mass for which application is made;
 - 3.3.3 The lot numbers of the relevant seed lots;
 - 3.3.4 The genetic origin of the seed, where known; and
 - 3.3.5 The genetic and physical quality (germination, purity) of the seed.
- 3.4 The owner / licence holder must give the necessary approval, in the cases where the variety is protected under Plant Breeders Rights.

Approval for all applicants, subject to 3.3.4 and 3.3.5 above, shall be granted for public varieties in cases where it has been granted to the first applicant.

Approval for the sale of uncertified seed shall only be granted for a limited period.

All approvals are subject to official, written agreement by the Registrar of Plant Improvement.

4 Deletion of listed varieties

Varieties on Table 8 may be deleted under certain circumstances. Deletion shall be considered if:

- 4.1 The owner or original applicant so request in writing;
- 4.2 Where a successful objection against listing by another party has been recorded;
- 4.3 The variety is no longer genetically pure;
- 4.4 Where inadequate volumes of basic seed cannot be maintained;
- 4.5 When the variety name is no longer contained on the official variety list, excluding seed intended only for export;
- 4.6 Repeated inability to produce adequate certified seed; and
- 4.7 The inability to make available pre-basic or basic seed of locally developed public varieties to other parties. Please note that basic seed has to be requested on a contract basis for at least one year in advance for annual crops and two years in advance for perennial crops.