

# **LAW ON SEED AND PLANT QUALITY**

**Draft: October 1, 2002**

**DRAFT****THE ISLAMIC REPUBLIC OF AFGHANISTAN  
LAW ON SEED AND PLANT QUALITY**

Law no. \_\_\_\_\_ of \_\_\_\_\_ dated \_\_\_\_\_

**CHAPTER 1. LAW AND OBJECTIVES****Article 1. Law and Objectives**

1.1. To be known as the Law on Seed and Plant Quality, this Law No. \_\_\_\_\_ of \_\_\_\_\_ of the Islamic Republic of Afghanistan is enacted to regulate and stimulate production, procurement, sale and use of seed and plants. This Law is, and shall be implemented so as, to achieve the following objectives:

- 1.1.1. Ensure an adequate supply of high-quality seed and plants for all farmers.
- 1.1.2. Encourage and support the development of an efficient seed and plant industry to produce and supply the required seed and plants, and private sector investment in seed and plant production, marketing and supply.
- 1.1.3. Encourage general farmer use of improved seed of high-yielding varieties and high-quality seed and plants.
- 1.1.4. Prevent the movement of seed, plants and/or plant parts which carry harmful diseases and/or pests, and prevent or control outbreaks thereof.
- 1.1.5. Provide a legal basis for government and private-sector activities in seed and plant development, use and supply, and ensure their rights.

**CHAPTER 2. PROVISIONS****Article 2. Provisions**

2.1. Provisions of the Law: This Law includes the following provisions:

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### **Article 3. Definitions**

3.1. Definitions: For the purposes of this Law, the following terms shall be construed, respectively, to mean:

1. **Breeder Seed**: seed of the first generation of seed multiplication, produced under the direct control of the Breeder and/or his assigned representative.
2. **Certified Seed**: seed produced from multiplication of Foundation and/or Registered seed, under the control of the official Seed Certification program, and meeting all requirements thereof.
3. **Commercial Seed**: (1) any seed or planting material which is offered for sale, sold, advertised, or entered into marketing channels; (2) non-Certified seed.
4. **Entity or Person**: individual, association, partnership and/or corporation.
5. **External Seed Quality Control**: control and regulation of the quality of seed and the operations of entities which produce, handle, and/or market seed, by the official agency of the Government of Afghanistan, as established hereunder.
6. **Post-Control Plots**: process of identifying the variety of seed by planting “grow-out plots” in the field and subsequent identification of the variety and genetic purity of the progeny as it grows in the field.

7. **Field Inspection:** inspection of the growing plants in the field by a qualified inspector, following specific procedures, for the purpose of determining the varietal purity of a seed crop, plants affected by diseases or pests, presence of undesirable plants, and general condition of the seed crop.
8. **Formal Seed Sector:** legal or physical entities engaged in any aspect of the production, handling, distribution and marketing of seed as a business. All formal sector seed and operations shall be subject to the provisions of this Law, and shall be eligible for all guidance and support provided by the Government.
9. **Foundation Seed:** seed generation obtained from reproduction of Breeder Seed, and meeting all requirements and standards.
10. **Genetic (Varietal) Quality:** the combination of characteristics which show the degree of genetic or varietal purity of seed.
11. **Government:** the Government, or any agency or activity thereof, of the Republic of Afghanistan.
12. **Hybrid Seed:** seed produced by the first generation obtained from crossing parental forms.
13. **Informal Seed Sector:** farmers or any group of farmers who produce seed for their own use or for use by their neighbors or others in their immediate area. Such seed and operations shall be exempt from Government controls on seed but shall be eligible for all Government guidance and support, so as to improve the quality of their seed and operations. Notwithstanding, if (1) such seed are advertised and promoted for sale in a manner which indicates that the informal operation has become a commercial activity; or (2) as otherwise provided by Regulations hereunder, the Informal status no longer applies, and the operation has entered the Formal Seed Sector. Provided, that village seed production and supply groups shall be classified as the Informal Sector, so long as the above descriptions apply.
14. **Insect Pests:** insects or other invertebrates injurious to plants and plant products.
15. **Inspector:** a trained and competent specialist who is an official of the Seed and Plant Quality Assurance Service and has the authority and responsibilities of conducting the work of inspection, sampling, testing, supervising, guidance and control in the implementation of this Law on Seed.
16. **Internal Seed Quality Control:** control and assurance of seed quality by sub-programs within and under the control of the entity which produces, handles and/or markets the seed.
17. **International Seed Testing Norms and Procedures:** those established and recommended by the International Seed Testing Association (hereinafter ISTA).
18. **Introduction Into Sale or Into Market Channels:** offering, making available, supplying, handling, storage, delivery and/or shipment of seed for sale, as well as for

barter or any other type of delivery or offer to deliver which makes the seed available for use.

19. **List of Recommended Varieties:** list maintained by an appropriate agency of the Ministry of Agriculture and Livestock of crop varieties which have been field-tested in Afghanistan, found to be adapted and high-yielding, and are recommended for planting by Afghan farmers.
20. **Lot (Seed Lot):** a determined and specifically identified quantity of seed which are covered by one set of documents.
21. **MOAL or Ministry of Agriculture and Livestock:** the official agency of the Government of the Republic of Afghanistan which has responsibility in the field of agriculture and livestock, including seed and plant matters.
22. **Non-Certified Seed:** Seed which has not been entered into the Seed Certification program, has not met its requirements, and does not bear a Seed Certification label.
23. **Official:** a duly-authorized program, agency, officer, requirement or action of the Government of the Republic of Afghanistan, as provided under this Law and its Regulations, and in the implementation thereof.
24. **Originator of a Variety:** a legal or physical entity which created, obtained, or bred the variety, or who has the right for the production of Breeder Seed in conformity with legislative acts.
25. **Patent-Holder (License-Holder):** Owner of the variety or hybrid, having the right to it by law.
26. **Places (or Locations):** Vessels, cars and/or other vehicles, buildings, docks, nurseries, storages, sales areas, orchards, fields, and/or any other premises where seed, plants and/or plant products are grown, kept or handled.
27. **Plant Diseases:** fungi, bacteria, nematodes, and/or viruses which are injurious to plants and plant products, and the pathological condition in plants and plant products caused thereby. This definition shall also include plants which are parasitic or partially parasitic on other plants.
28. **Plant Quality:** the quality of plants shall refer to freedom from harmful and/or designated plant insect pests and diseases, varietal purity, and general health condition.
29. **Planting Quality:** combined indices which define the value of seed for planting.
30. **Plants:** trees, shrubs, vines, forage and cereal plants, and all other plants.
31. **Plant Products:** cuttings, grafts, buds and all other parts of plants, fruits, vegetables, roots, bulbs, seeds, wood, timber and all other plant products.

32. **Plant Quarantine:** the control and/or restriction of movement of seed and/or any plant part in such a manner as to prevent the introduction or movement of specified plant diseases and/or pests.
33. **Protected Variety:** a variety for which a patent or sole rights is held under the Plant Variety Protection Law of Afghanistan or any other country, in accordance with the procedures of UPOV.
34. **Sale:** any act of advertising, promoting, selling, or offering for sale, any seed or planting material covered under this Law.
35. **Sample:** a small amount of seed, as specified in international procedures, taken from a larger lot of seed for testing purposes. The sample shall be taken in such a specified or standardized manner that it is accurately representative of the entire lot.
36. **Seed:** botanical seed or other parts of crop plants which are used for reproduction purposes.
37. **Seed Categories:** the generation of seed, in terms of its descent from Breeder seed. These shall be the same as used in international usage: Breeder, Foundation (Elite, Basic), (sometimes Registered), Certified, and Non-Certified.
38. **Seed Law of Afghanistan:** This Law and Regulations issued hereunder for the implementation of this Law, including Standards, Procedures, Norms, and other requirements.
39. **Seed Producer:** the person or entity producing crops for use as planting seed.
40. **Seed and Plant Quality Assurance Service:** the official organ of the Government of the Republic of Afghanistan, its main or any subsidiary office, the official seed testing and quality assurance agency. This agency shall be responsible for implementing this Law and Regulations issued hereunder, seed Certification, seed quality and health testing, and plant quarantine.
41. **Seed Quality:** shall refer to and include physical quality as measured by physical purity and freedom from undesirable materials, physiological purity as measured by germination and vigor, genetic purity as measured by varietal purity, and health quality as measured by freedom from insects, pests and diseases.

### CHAPTER 3. LEGISLATION ON SEED AND PLANTS

#### Article 4. Seed and Plant Law

4.1. Seed Legislation: The Legislation of the Islamic Republic of Afghanistan on seed and plant quarantine consists of this Law on Seed and Plants, and any and all Regulations, Rules and Standards issued under authority of this Law for the implementation of the provisions of this Law, as are still in force.

## **Article 5. Application of the Law**

5.1. Crops and Varieties Covered: This Law and Regulations under it, shall apply to all commercial seed and plants (as defined hereunder) of varieties and crops for field, horticultural, ornamental, herb, medicinal and any and all other uses, which are offered for sale.

5.2. Area and Materials Covered: This Law and shall apply and be in full force in all the national territory of the Islamic Republic of Afghanistan., and shall be applicable to seed and plant materials produced and/or used therein, or entering into or leaving therefrom.

5.3. Entities Covered: Provisions of this Law are applicable to all legal and physical entities of the Formal Seed Sector involved in production, processing, storage, distribution, sale and/or use of seed. It applies both to the entities and to the seed they handle.

5.4. Exemption of the Informal Seed Sector: Seed of the Informal Seed Sector, as defined in Article 1 hereof, shall be exempt from the controls established under this Law. Notwithstanding, guidance and assistance offered by the Government shall be fully available to the Informal Seed Sector and its participants, as Government recognizes that Informal Sector seed affects agricultural productivity. Such assistance is intended to help agricultural productivity, and help develop the Informal and Formal Seed Sectors.

5.5. Precedence of This Law: In the areas, applications, and activities covered by this Law, this Law shall take precedence. Previous Laws, Regulations and other Acts which contravene this Law and/or Regulations hereunder, are hereby declared null and void.

## **Article 6. Force of International Treaties**

6.1. Precedence of International Treaties: If any provision of this Law on Seed and Plants or of a Regulation issued hereunder are contrary to international treaties, agreements or trade arrangements entered into by the Islamic Republic of Afghanistan, the regulations of international treaties shall prevail and be applied.

## **Article 7. Representation of Afghanistan in Domestic and International Matters**

7.1. Representative of Afghanistan: The Seed and Plant Quality Assurance Service of the Ministry of Agriculture and Livestock (hereinafter MOAL), as established hereunder, shall be the official representative of the Government of the Islamic Republic of Afghanistan in international organizations, associations, symposia, etc., which deal with seed testing, quality control under Seed Laws, seed health testing, plant quarantine, and seed Certification. For representational matters, the Director-General of the Seed and Plant Quality Assurance Service is Chief Inspector for Seed Control, Seed Testing, Seed Certification and Plant Quarantine.

7.2. Membership in International Groups: The Seed and Plant Quality Assurance Service shall seek and maintain, on behalf of Afghanistan, active membership and participation in such international organizations and agencies which deal in activities related hereto, as International Seed Testing Association (ISTA), Association of Official Seed Certifying

Agencies (AOSCA), etc., and shall diligently seek to ensure that related seed and plant operations in Afghanistan are in full compliance with international norms, and to promote the international reputation of Afghanistan and its seed and plant supply and use.

## **CHAPTER 4. IMPLEMENTING AGENCY**

### **Article 8. Ministerial Responsibility**

8.1. Role of MOAL: The Ministry of Agriculture and Livestock shall have the responsibility and all necessary authority to assist, guide, control, encourage and support the development of seed and plant production and supply, and agencies involved therein. Government external seed and plant quality control shall be conducted by the MOAL through its legally-appointed agency.

### **Article 9. Implementing Agency**

9.1. Seed and Plant Quality Assurance Service: To implement this Law and Regulations issued hereunder, and to provide testing and support services as required to implement this Law, the Seed and Plant Quality Assurance Service of Afghanistan (SPQAS) shall be established as an official and permanent subsidiary agency of the MOAL.

9.2. Ability to Operate Without Undue Influence: The Seed and Plant Quality Assurance Service shall be so organized and shall operate as a separate entity within the MOAL, so as to permit autonomous operation free of undue bias, influence or other considerations. It shall not be administratively related to any MOAL unit involved in variety development and/or seed or plant production or maintenance. The Seed and Plant Quality Assurance Service shall be responsible to and report directly to the Minister and Deputy Minister of Agriculture and Livestock.

9.3. Funding: Government shall ensure that the Seed and Plant Quality Assurance Service is properly equipped, funded and staffed to carry out its assigned responsibilities in a manner which promotes development, supply and use of high-quality seed and planting materials. The Seed and Plant Quality Assurance Service shall be a permanent entity in the Government Budget. Financing of the Seed and Plant Quality Assurance Service is at the expense of the state budget of the Republic of Afghanistan. It shall additionally, but not primarily, be funded from earnings for services rendered, and other sources of financing as determined by the Government of the Islamic Republic of Afghanistan.

9.4. Responsibilities and Authorizations: The Seed and Plant Quality Assurance Service shall be responsible for, and shall have all necessary authorizations to carry out the following activities:

- 9.4.1. Implementation of this Law and Regulations issued hereunder.
- 9.4.2. Seed Certification and Quality-Declared Seed.
- 9.4.3. Seed Testing.
- 9.4.4. Seed Health Testing.
- 9.4.5. Plant Quarantine.

Pursuant hereto, the Seed and Plant Quality Assurance Service, its inspectors and staff shall be vested with all authorizations required to carry out their assigned responsibilities in a complete and efficient manner.

9.5. Staff: The Seed and Plant Quality Assurance Service is hereby empowered to, and shall, hire permanent and temporary and/or part-time staff as required to implement its duties effectively and efficiently.

9.6. Facilities: The Seed and Plant Quality Assurance Service is hereby empowered, and shall, procure, install, maintain and operate such facilities, to include buildings, equipment, vehicles, supplies and other necessities, as required to implement its duties effectively and efficiently.

9.7. Structure: The Seed and Plant Quality Assurance Service shall be composed of not less than the following units:

9.7.1. Central National Seed and Plant Quality Assurance Unit.

9.7.2. Province (or District, if so established after identifying the need thereof) Seed and Plant Quality Assurance Units as required.

9.7.3. Plant/Seed Quarantine Inspection Stations at entry points to be established by Regulations issued hereunder.

Each of these Units shall include all facilities and staff required to conduct its assigned duties effectively and with technical competence of international standards.

9.8. Internal Organization and Management: Internal organization and management of the Seed and Plant Quality Assurance Service shall be as defined in Regulations issued under this Law.

9.9. Delegation of Authority: The Seed and Plant Quality Assurance Service may transfer part of its functions which are not connected with implementation of Seed Law, Seed Certification or Plant Quarantine, to other legal and physical entities accredited by the Seed and Plant Quality Assurance Service.

9.10. Charges for Services: Charges for services of the Seed and Plant Quality Assurance Service shall be as follows:

9.10.1. Seed testing services provided by the Seed and Plant Quality Assurance Service: Each legal or physical entity shall be allowed free tests on five (5) samples per year. For this purpose, combined germination, purity, and moisture tests conducted on the same sample shall constitute one test. For more than five tests, the entity shall be charged a nominal fee for each test, as established in Regulations hereunder.

9.10.2. Certification services shall be charged to the applicant at a fee schedule established in Regulations issued under this Law, and revised at 3-year intervals.

9.10.3. Seed health tests requested by customers shall be done at a nominal charge, as established by Regulations issued hereunder.

9.10.4. Seed and plant quarantine testing is in the public interest, and shall be conducted free of charge.

9.10.5. Income from such charges shall accrue to the operating budget of the Seed and Plant Quality Assurance Service.

## **CHAPTER 5. SEED QUALITY CONTROL**

### **Article 10. Coordination and Regulation of Seed Operations**

10.1. Regulation and Coordination: The Seed and Plant Quality Assurance Service shall regulate and coordinate the overall operations of the seed and plant production and supply industry, in respect to entity registration/licensing, seed and plant quality, documentation, labeling, identification, records, form of operations, and similar matters.

10.2. Control and Coordination Approach: External seed quality control by the Seed and Plant Quality Assurance Service, in conformity with this Law, shall pursue an integral policy of control of genetic, health and planting quality of seed and plants in the Republic of Afghanistan, organize development and approve methods of determination including field and laboratory control, taking and analyzing samples, required documentation on quality of seed and plants, create a system of Certification of seed, keep official registers of Formal Seed Sector entities producing/handling/selling Certified and non-Certified seed, conduct seed health testing, carry out plant quarantine inspections and control, and perform such other functions as may be established by Regulations issued hereunder.

10.3. Support and Guidance: The Seed and Plant Quality Assurance Service shall not focus solely or primarily on control and regulation, but shall provide support and encouragement while ensuring that farmers receive seed and plants of the desired quality. The Seed and Plant Quality Assurance Service, its involved staff, and all MOAL agencies shall understand that their role is not primarily policing, but developing and guiding an adequate supply of improved seed and plants, and shall carry out their duties accordingly.

10.4. Registration and Licensing: The Seed and Plant Quality Assurance Service shall maintain a register of all seed and plant enterprises and operations, and shall issue and control annually-issued licenses for entities involved in seed and plant production, processing, marketing, distribution, import or export, trading and sale. Notwithstanding, no license shall be required of farms or farmers who produce seed or plants under contract to another licensed entity, or of participants in the Informal Seed Sector. Fees for such licensing and registration shall be nominal, and shall in no way be set at higher levels.

10.5. Standards of Seed Quality: Minimum standards of genetic and planting quality required of seed, and health and productive quality of plants, offered for sale shall be determined as Official Standards of the Islamic Republic of Afghanistan, and promulgated through Regulations issued under this Law. Standards shall be established under the Seed Law and for Certification purposes.

## **Article 11. Official Inspectors and Inspections**

11.1. Inspectors and Analysts and Inspections: The Seed and Plant Quality Assurance Service shall be adequately staffed with competent trained inspectors and analysts and specialists as required to carry out the requirements of this Law and Regulations issued hereunder. These duties shall include inspecting, sampling and testing seed and seed fields, plants and plant products, within the national territory, imported and/or exported, and supporting development of a quality seed and plant materials industry.

11.2. Unbiased Inspection: Inspectors of the Seed and Plant Quality Assurance Service, in carrying out their duties, shall not be dependent on any other legal or physical entity, and shall be guided solely by this Seed and Plant Law of the Islamic Republic of Afghanistan. Inspectors shall do all in their power to train and guide seed and plant suppliers to improve their seed/plants and operations, while ensuring that all farmers receive high-quality seed and plants.

11.3. Cause for Dismissal of Inspectors: No inspector shall show discrimination or unethical behavior for or against any entity. To be found guilty of unethical behavior, for or against an entity, shall be cause for immediate dismissal without recourse.

11.4. Duties of Inspectors and Staff: Seed and Plant Quality Assurance Service staff, officers and inspectors have within their competence the right to:

11.4.1. implement plant quarantine and seed variety and planting quality control freely;

11.4.2. reject and/or prohibit sale of plants, seed and seed fields failing to meet applicable standards as determined by field inspection or official laboratory testing;

11.4.3. prevent illegal use of seed and plants of protected varieties;

11.4.4. take samples of seed and plants as part of the inspection for seed quality control and plant quarantine;

11.4.5. freely enter, during normal business hours, the premises of any production, supply and/or trade organization and examine records or commodities as required to obtain necessary information, documents and samples on plants, or seed fields and lots;

11.4.6. quarantine or prohibit production, storage, shipment and/or sale of plants or seed, including conducting necessary measures for removal of violations of this Law and regulations issued hereunder;

11.4.7. prohibit sale and/or movement of seed lots without a certificate attesting to their genetic and planting quality, other documentation, or phyto-sanitary certificate where such is required, or of plants which are found to carry a harmful or restricted insect pest or disease;

11.4.8. ban the use of seed which have no documents attesting to their quality;

11.4.9. take legally-provided measures to suppress violations of this Law and Regulations issued hereunder;

11.4.10. other actions as may be authorized in Regulations issued hereunder.

11.5. Assistance by Other Government Agencies as Required: Any and all agencies of Government shall render any and all requested assistance to Inspectors of the Seed and Plant Quality Assurance Service, as required to carry out their official responsibilities.

## **CHAPTER 6. PRODUCTION, SUPPLY AND USE OF SEED AND PLANTS**

### **Article 12. Seed and Plant Production, Handling, Distribution and Marketing**

12.1. Private Sector Responsibility: Production, handling, distribution and marketing of seed and plants for general farmer use shall be the responsibility of the private sector.

12.2. Government Responsibility: Government shall participate in seed and plant supply only by (1) providing those services of a public nature (research, breeding, support, creating a favorable operating environment, training, credit, farmer education and market development, etc.) which promote the establishment and maintenance of seed and plant sectors which serve the public good of Afghanistan; and (2) providing those essential seed and/or plants which are not provided by the private sector. In the case of government supply of seed and/or plants, as and when the private sector begins to supply such seed and/or plants, Government shall reduce or terminate its activities to the extent required to ensure that Government operations do not compete with the private sector.

12.3. Entities Which May be Involved: Seed or plant production and/or supply activities may be carried out by any legal or physical entity of the private sector, in either the Formal Seed Sector or the Informal Seed Sector. Domestic and international entities shall have equal rights to carry out such activities, in accordance with requirements issued hereunder.

### **Article 13. Formal Seed Sector**

13.1. Entities and Activities: Formal Seed Sector programs, enterprises and operations may be carried out by any domestic or international legal or physical entity which registers properly with the Seed and Plant Quality Assurance Service and complies with requirements hereunder. Its activities may include any or all of the following:

13.1.1. develop and implement programs for seed variety development and/or seed production, handling and supply, or plant production and supply;

13.1.2. promote interaction between producers, suppliers and users of seed or plants, and supplies them with seed, plants, technical services, or advice;

13.1.3. analyze conditions of the seed market and seek to provide its needs;

13.1.4. offer seed and/or plants for sale;

13.1.5. produce, process, prepare, sell and/or use seed or plants;

13.1.6. hold and/or issue licenses for production of Foundation, hybrid, and/or protected variety seed;

13.1.7. conduct international or domestic activities in variety development, seed or plant production, and/or export or import of seed or plants;

13.1.8. other activities as may be specified in Regulations issued hereunder.

13.2. Maintaining Records: Any such entity shall maintain complete and adequate records of quantity, origin and amount of stock seed, seed or plants sold, variety, operations conducted on, kind and genetic and planting quality of seed or plants of each lot. Such records shall be maintained for three years following the sale and/or disposal of all seed or plants of the lot. In the implementation of this Law and Regulations issued hereunder, such records shall be made accessible to Seed and Plant Quality Assurance Service Inspectors upon request.

#### **Article 14. Informal Seed Sector**

14.1. Composition: The Informal Seed Sector includes farmers or groups of farmers who produce seed and/or plants for their own use or for the use of their neighbors. Seed or plant production and supply is not a commercial business for them. Provided, that farmers or groups of farmers who produce seed or plants for the general use of farmers in their village or local area shall be specifically considered as within the Informal Seed Sector. Village Seed Enterprises which supply seed only for their members shall be considered as within the Informal Seed Sector.

14.2. Exemptions: requirements for standards, labeling, registration, and other qualifications, shall be waived for the Informal Seed Sector.

14.3. Services Available to the Informal Seed Sector: development assistance and services as specified herein and/or provided by Government to develop the seed and plant supply, shall be available without charge to the Informal Seed Sector. Such entities shall be encouraged and assisted to develop into the Formal Seed Sector.

#### **Article 15. Rights of Production, Supply and Use of Seed and Plants**

15.1. Protected Varieties: Production and sale of seed or plants of varieties which are legally protected under Plant Variety Protection Laws of the Islamic Republic of Afghanistan and/or any other country may be conducted only by legal and/or physical entities which hold exclusive rights of patent holders, or under licenses granted by patent holders. Use of such protected seed and plants shall be in accordance with agreements with the patent holders. Informal Seed Sector production, as well as production by the Formal Seed Sector, shall abide by the provisions of Plant Variety Protection Laws as currently in force in Afghanistan and/or the country of origin of the protected variety.

15.2. Non-Protected Varieties: Non-protected seed and plant varieties (varieties which are not protected under existing Plant Variety Protection Laws, such as local, old, etc.) may be produced and used by any legal or physical entity without restrictions except those relating to seed Certification or quality control, as applicable, under this Seed Law.

#### **Article 16. Production of Breeder, Foundation, Certified and Non-Certified Seed**

16.1. Responsibility for Breeder Seed: Breeder seed shall be produced and maintained by the originator of the variety or the patent holder and/or his duly authorized representative. Breeder seed shall be used to produce Foundation seed, either by the originator or his authorized representative, or by Foundation Seed Producers under the terms of agreements with the originator and/or patent-holder. To ensure protection, patent-holders, authorized representatives and agreements shall be registered with the Seed and Plant Quality Assurance Service as specified in Regulations issued hereunder.

16.2. Foundation and Hybrid Seed: Foundation and hybrid seed may be produced by legal and/or physical entities duly authorized by the originator, patent holder, and/or his designated representative. Production of Foundation seed is done under the control of the originator or patent-holder of the variety, who shall determine the number of generations through which seed of this variety may be multiplied, including the number of generations under Certification. Foundation seed shall be produced only by legal and/or physical entities which have registered with the Seed Quality Assistance Service, and meet all requirements for producing Foundation seed under Certification.

16.3. Certified Seed: Certified seed shall be produced only by legal and/or physical entities which have registered with the Seed and Plant Quality Assistance Service, and meet all requirements for producing Certified seed.

16.4. Non-Certified Seed: Non-certified seed, including Quality-Declared Seed, may be produced by any legal and/or physical entity. Such entities within the Formal Seed Sector shall appropriately register with the Seed and Plant Quality Assurance Service. An entity in either the Formal or the Informal Seed Sector may not produce seed of varieties protected under existing Plant Variety Protection Laws in Afghanistan or the country of origin of the variety, unless it has secured appropriate authorization from the holder of the patent for such protected varieties.

### **CHAPTER 7. DETERMINATION OF QUALITY OF SEED**

#### **Article 17. General Requirements and Implementation**

17.1. Testing Required: All Formal-Sector seed used for planting shall be subject to the provisions of this Law and shall be tested for genetic (variety) and planting (sowing) quality in conformity with provisions hereunder.

17.2. Enterprise Internal Quality Control: Enterprises of the Formal Seed Sector are encouraged and shall be assisted to maintain their own internal quality control facilities and operations.

## **Article 18. Testing Procedures**

18.1. Conformance to International Standards: Internationally standardized methods, procedures and technical means, as well as terminology and required documentation concerning seed, shall be used in testing and determining the genetic and planting quality of seed. These shall be as recommended by the ISTA, whether done by an official Seed and Plant Quality Assurance Service laboratory, other government and/or private-sector laboratories, or privately-operated internal laboratories of seed producers.

18.2. Official Testing: Seed Testing Laboratories of the Seed and Plant Quality Assurance Service shall (1) test all samples intended to provide information for official labeling/documentation of seed; (2) test seed samples for other purposes, from any source; (3) conduct referee testing and analyst training for all laboratories of the public and private sectors, to promote uniform test procedures and results; (4) conduct required seed health testing; and (5) conduct tests as required to implement the plant quarantine laws and regulations. Provided, however, that upon detailed inspection of other laboratories which may be established in Government or the private sector, and finding them adequately competent, any part of these duties may be delegated to such laboratories. Periodic inspection and referee testing of the performance of these laboratories shall be maintained.

18.3. Implementing the Seed Law: The Seed and Plant Quality Assurance Service and/or its designated representatives, shall sample seed entered into marketing channels in order to ensure that all seed offered for sale meet the required quality standards, and shall guide and support development of a quality seed industry and farmer use of quality seed, in both the Formal and Informal Seed Sectors.

18.4. Sampling and Testing for Labeling Purposes: For testing for official labeling purposes, official samples shall be taken from seed lots by Inspectors of the Seed and Plant Quality Assurance Service or its designated representatives, unless otherwise provided by Regulations issued hereunder. For other purposes, samples may be taken by any concerned person. Sampling procedures, in all cases, shall be in accordance with international procedures established by the ISTA.

18.5. Authorized Testing Laboratories: Laboratory analysis of samples tested for official labeling purposes shall be done by laboratories of the Seed and Plant Quality Assurance Service or other officially-designated laboratories. For other purposes, samples may be analyzed by any properly equipped and operated laboratory, such as the internal quality control laboratory of a seed enterprise.

18.6. Registration of Laboratories: Laboratories other than official laboratories of the Seed and Plant Quality Assurance Service shall be registered with the Seed and Plant Quality Assurance Service, in order to benefit from the referee standardization, training and support program which shall be conducted by the Seed and Plant Quality Assurance Service.

## **Article 19. Certification of Seed**

19.1. Implementation of Certification: Certification of seed shall be implemented by the Certification program of the Seed and Plant Quality Assurance Service under authority of and in accordance with, this Law and Regulations issued hereunder.

19.2. Certification Procedures: Certification requirements, procedures and standards shall be established, conducted and applied in compliance with international norms, and shall be published and freely available to interested persons. In addition to seed testing, seed production fields under Certification shall be inspected.

19.3. Voluntary Certification: Certification is voluntary, not obligatory. However, seed producers are encouraged to certify their seed and take advantage of its benefits.

19.4. Certification of Vegetative Propagating Materials: The SPQAS is also authorized to implement a Certification program for plants, seedlings and other vegetative materials used for propagation.

## **Article 20. Seed and Plant Quarantine**

20.1. Seed and Plant Quarantine: The Seed and Plant Quality Assurance Service, including its plant quarantine section, shall conduct such inspections and carry out such tests and actions as are required to meet international norms in plant quarantine for the purpose of preventing the movement of harmful plant diseases and/or insect pests.

20.2. Inspection and Documentation: All imported and/or exported seed and/or plant materials shall be subject to inspection and testing by the Seed and Plant Quality Assurance Service in accordance with international plant quarantine procedures, and shall bear the required documentation. When designated plant diseases and/or insect pests occur within the country, the inspection, testing, and control required, in the opinion of the SPQAS plant quarantine specialists, to control the insect pest or plant disease and prevent its spread shall also be conducted.

20.3. Control Authorization: The plant quarantine program of the Seed and Plant Quality Assurance Service shall be authorized and empowered to seize, quarantine, destroy, and/or stop or prevent movement of contaminated materials, as defined in Regulations issued hereunder.

20.4. International Phyto-Sanitary Certificates: The Seed and Plant Quality Assurance Service, and its plant quarantine program, shall be the agency in the Islamic Republic of Afghanistan which issues international Phyto-Sanitary Certificates for seed and plants.

## **Article 21. Documentation on Seed and Plants**

21.1. Certified Seed Labels and Documentation: Seed or plants under Certification which conform to the requirements for Certified seed shall bear a certificate (label or tag)

showing the appropriate generation of Certified seed and other required information, for each container. Authority to issue official labeling documents on Certification of seed is vested in the Seed and Plant Quality Assurance Service.

21.2. Non-Certified Seed Labels and Documentation: Non-certified seed or plants shall bear a label (tag) showing the producer's declaration and test-determined variety and planting quality.

21.3. Documentation on Seed or Plants for Export or Import: Exported and imported seed or plants shall be accompanied by the aforementioned labels/tags, an international certificate as appropriate, a phyto-sanitary certificate, and other documentation as provided for by the applicable purchase and/or sale agreement(s).

21.4. Records: each seed enterprise shall maintain complete records on each seed or plant lot, including but not limited to those which may be specified in Regulations issued hereunder, for a period of three (3) years after the sale of the last seed or plants of the lot.

## **CHAPTER 8. GOVERNMENT REGULATION OF SALE OF SEED OR PLANTS**

### **Article 22. Introduction of Seed or Plants into Marketing Channels**

22.1. Eligibility for Sale: Seed or plants of any variety offered for sale, whether or not included in the List of Recommended Varieties as specified in Regulations issued hereunder, are eligible for sale and use. All seed or plants shall carry a certificate or label (tag) conforming to this Law and Regulations issued hereunder, testifying to their identity and genetic and planting qualities.

22.2. Labeling Requirement: Each container of seed or plants introduced into marketing channels shall carry a label (tag) bearing the required information. When seed are shipped in bulk, the requisite labeling information shall be given in covering documents.

22.3. Treated Seed: Seed treated by chemical and/or biological materials shall be introduced into marketing channels only in sealed packages. Each package shall carry an additional label identifying it as treated, the treatment material, and instructions on safety measures and possible effects on the health of people and animals.

22.4. Label Contents: The Seed and Plant Quality Assurance Service shall determine, require and control the content and accuracy of information on seed labels, types and categories of seed which shall be sold in packages, and other relevant aspects. Such requirements shall be detailed in Regulations issued hereunder.

22.5. False or Misleading Information: It is prohibited to have false or misleading information on the label (tag) or covering documents regarding the amount, kind, properties, origin, quality or other aspects of the seed. It is further prohibited to disseminate false or misleading claims by means of mass media, individual contacts, or other communications. The Seed and Plant Quality Assurance Service and its Inspectors are authorized to stop sale or offering for sale of such seed immediately, in accordance with Regulations issued hereunder.

### **Article 23. Export and Import**

23.1. Documentation Required for Export or Import: imported or exported seed shall carry phyto-sanitary certificates of international standard, as well as other documentation and information as are required by this Seed Law and the terms of delivery. All imported seed or plants shall have a document/label certifying their planting quality, import quarantine permission, and a phyto-sanitary certificate issued by the exporting country.

23.2. Inspection of Exported and/or Imported Seed and Plants: Seed and Plant Quality Assurance Service entry and exit checkpoints for quarantine inspection of seed and plant materials shall inspect, arrange testing as required, and control import and export of seed and plant materials, as specified by regulations issued hereunder.

23.3. Allowed Import of Seed: Seed may be imported into the territory of the Islamic Republic of Afghanistan of crop varieties included in the List of Recommended Varieties, and of other varieties which are approved by the Seed and Plant Quality Assurance Service in implementing this Seed Law, for the following purposes:

- 23.3.1. for scientific purposes;
- 23.3.2. for performance, variety and yield tests;
- 23.3.3. for production of seed;

and/or

- 23.3.4. for planting by farmers.

23.4. Import or Export of Seed of Protected Varieties: For the export or import of seed of protected varieties, they must be accompanied by covering documents which substantiate the observance of rights of the patent holder of the variety.

23.5. Import of Bulk Seed: Import of seed in bulk is prohibited, except for containers of vegetable, flower or herb, etc., seed which are intended for repackaging in small packets within the country.

### **Article 24. Import and Export of Plant Materials Other Than Seed**

24.1. Import or Export Requirements: Any plant materials for reproductive use, which bear the proper phyto-sanitary certificate and other documentation as may be required by Regulations hereunder, and which meets the requirements for any restricted or prohibited insect or disease pest, may be imported or exported, subject to limitations established by Regulations issued hereunder.

## CHAPTER 9. VIOLATIONS AND RESPONSIBILITY FOR VIOLATIONS

### Article 25. Responsibility for Compliance

25.1. Responsibility for Compliance: The owner and/or entity selling/offering for sale of the seed or plants shall bear full responsibility for complying with the requirements of this Law and Regulations hereunder, and for any violations hereof and/or damages resulting from any such violations.

### Article 26. Violation of the Seed and Plant Quality Law

26.1. Penalty for Violation: Legal and/or physical entities guilty of violating this Law are subject to disciplinary, administrative and other penalties as provided in Regulations issued hereunder and other applicable laws of the Islamic Republic of Afghanistan. In addition, the violating seed and/or plant materials may be seized and destroyed, and/or the violating entity's license may be revoked. Such revocation of license shall mean that the violating entity can not continue in legal handling of seed and/or plants.

26.2. Civil and Criminal Liability: Imposition of fines and other penalties hereunder does not free the guilty party from damages in conformity with civil and criminal legislation of the Islamic Republic of Afghanistan.

### Article 27. Specified Violations

27.1. Violations: The following, and others as may be defined in Regulations issued hereunder, are violations of the Law of the Islamic Republic of Afghanistan on Seed and Plant Quality. Provided, however, that seed or plants of the Informal Seed Sector are exempt, to the extent that they are in accordance with the definition of the Informal Seed Sector as provided herein. If advertising or sale beyond the definitions herein are committed, such seed shall be deemed to be within the Formal Seed Sector, and become subject to all requirements herein, including the following violations.

27.1.1. sale or offering for sale of seed or plants which do not meet the minimum quality standards established under this Law and Regulations hereto and which are applicable thereto;

27.1.2. sale or offering for sale of seed without a certificate attesting to its genetic and planting quality, and/or lacking documents specifying its quality;

27.1.3. import into the territory of the Islamic Republic of Afghanistan of seed or plants without documentation attesting to its genetic and planting quality, or without an import quarantine permission and phyto-sanitary certificate;

27.1.4. formation of a seed lot(s) destined for sale as seed, from a lot(s) of commercial grain without prior approval by the Seed and Plant Quality Assurance Service;

27.1.5. sale of seed or plants with labels and/or covering documents which bear false or misleading information concerning their identity, characteristics, origin, or quality;

27.1.6. sale or import in bulk of seed treated with chemical and/or biological preparations and/or without required warning labels;

27.1.7. non-observance of quarantine rules in production and international (export, import, transit) and intra-republic shipments of seed or plants;

27.1.8. contravention or interference to Inspectors performing the functions of control of seed quality and crop inspection as authorized hereunder;

27.1.9. introduction of false information about the documentation and/or quality of seed or plants in order to introduce or sell it;

27.1.10. forgery of documents, performance of forged documents required for the implementation of regulations of this Law or in order to perpetrate such forgery and performance of a forgery;

27.1.11. non-observance of an order of taking stock of planted and sold seed or plants, or of directed disposal of seed or plants;

27.1.12. dissemination of false advertisements and/or claims relating to the seed or plants;

27.1.13. or such other violations as may be established in Regulations issued hereunder.

27.2. Applying Penalties for Violations: Violations stipulated herein and/or in Regulations issued hereunder shall be registered by the Seed and Plant Quality Assurance Service, which shall either (1) issue a warning; (2) and/or impose a fine; (3) and/or issue orders on handling/disposing of the violating seed lot(s) or plants. Fines shall be established in Regulations issued hereunder. In order to keep fines in line with current economic conditions, the Seed and Plant Quality Assurance Service shall review and adjust fines every three years.

27.3. Payment of Fines and Taking Remedial Action: Fines are to be paid, and/or required actions taken, within 15 days of notification to the specified payee entity. Fines imposed in conformity with this Law by the Seed and Plant Quality Assurance Service are directed to the general budget. Entities more than 15 days late in paying and/or taking required actions may have their license revoked, in addition to other penalties and legal actions.

27.4. Publication of Violations: The Seed and Plant Quality Assurance Service shall annually publish and make available a report of all violations, including the name of the violating entity or party, description of the violation and the seed and/or plant materials involved, and the disposition of the matter.

27.5. Disputes: Disputes connected with the application of this Law, which are not settled in negotiations between the concerned parties, shall be considered in the appropriate courts in accordance with the applicable Laws of the Islamic Republic of Afghanistan.

## **CHAPTER 10. ADMINISTRATION OF THE LAW ON SEED AND PLANT QUALITY**

### **Article 28. Government Promotion of Seed and Plant Production and Use**

28.1. Government Support and Promotion: The Government may support private-sector variety breeders and seed and plant producers by purpose-oriented favorable investment promotion incentives, price and tax policy, in the same manner and extent as are other priority activities which receive investment promotion incentives. The Government may establish additional measures in order to encourage the development of variety breeding and seed and plant production.

### **Article 29. Issuance of Regulations Hereunder**

29.1. Issuance of Regulations: The Seed and Plant Quality Assurance Service of the Ministry of Agriculture and Livestock of the Islamic Republic of Afghanistan shall from time to time as required by conditions encountered, issue Regulations, Standards, procedures and rules for the application of this Law, which shall meet international norms insofar as is possible.

29.2. Legal Effect of Regulations: Regulations issued under this Law shall have the full effect of Law, and shall be considered as integral parts of this Law.

29.3. Public Hearing and Notification: Regulations shall be issued only after conducting public hearings following advance notification in the public media to advise concerned entities which may be affected by the Regulations so issued.

### **Article 30. Effective Date**

30.1. Effective Date: This Law of the Islamic Republic of Afghanistan on Seed and Plants shall become effective as of the date of signing, as shown below.

\_\_\_\_\_  
 (signed)  
 President  
 Government of the Islamic Republic of Afghanistan

\_\_\_\_\_  
 (date)