

CHILE

Decree Approving Regulations under Law No. 19.342

on the Rights of Breeders of New Plant Varieties

Having regard to Law No. 19.342 on the Rights of Breeders of New Plant Varieties, Decree No. 18, of 1996, of the Ministry of Foreign Relations which promulgated the International Convention for the Protection of New Plant Varieties, and the power provided for in Article 32, under 8, of the Political Constitution of the Republic,

I DECREE AS FOLLOWS

The following Regulations under Law No. 19.342 on the Rights of Breeders of New Plant Varieties, hereinafter referred to as "the Law," are hereby approved:

Article 1

For the recognition of the breeder's rights referred to under Article 20(a) of the Law, an application shall be filed with the director of the Seeds Department of the Agricultural and Livestock Service, using the form supplied by the same Department, in an original with one copy which shall contain at least the following particulars:

- (a) identity of the breeder and of the person acting on his behalf;
- (b) name of the variety;
- (c) different basic characteristics of the variety, with a mention of genus and species;
- (d) place and year in which the variety was placed on the market;
- (e) previous registrations of the variety abroad, if any.

Article 2

Without prejudice to any other documentation that might be required by the Law, the application for recognition shall be accompanied by the following:

- (a) a power of attorney containing the personal particulars of the person acting on behalf of the breeder, if any;
- (b) a duly completed technical questionnaire.

Article 3

Every application shall be appropriately numbered, in strict order of receipt, with a mention of the hour and date of filing, all of which shall appear on the copy returned to the applicant.

Article 4

On the acceptance of an application for prosecution, the person concerned shall cause an extract from the said application to appear once in the Official Gazette on the first or the fifteenth of any month, or on the following day if either of those days is a public holiday. The extract shall contain at least the following particulars:

- (a) identity of the breeder and of his representative, if any;
- (b) name of the variety, and species to which it belongs;
- (c) number and date of the application;
- (d) different basic characteristics of the variety.

Article 5

Where opposition to the grant of breeders' rights is formulated, the appropriate notifications shall be made by registered letter sent to the addresses of those concerned, the time limits being counted from the day following that of the Post Office receipt stamp recording the delivery.

Article 6

The fees for registration and maintenance of breeders' rights shall be set according to the provisions of Article 7(ñ) of Law No. 18.755.

Article 7

Payment of the fees and charges for keeping the registration in force shall be made before the first of May of the following year.

Article 8

Any person who engages in the sale or marketing of reproductive or vegetative propagating material of a protected variety shall be obliged to make use of the denomination of that variety, even after the term of protection of the variety has expired, provided that such use is not contrary to the prior rights of third parties.

Article 9

Where protection for the variety has been sought previously abroad, the breeder shall be allowed four years, calculated from the expiry of the period of one year referred to in the first paragraph of Article 22 of the Law, within which to provide the Variety Description Committee with the additional documents and other material required by the Law.