PROCLAMATION No. 782/2013

A PROCLAMATION ON SEED

WHEREAS, Ethiopia's seed sector is vital to ensure the country's agricultural economic development and food security;

WHEREAS, it has become necessary to facilitate the introduction of improved seed varieties to the market;

WHEREAS, it is essential to ensure that the supply of quality seed is made available to farmers, agro-pastoralists and other seed users;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

Unit Price 9.20
PART ONE

GENERAL

1. Short Title
This Proclamation may be cited as the “Seed Proclamation No. 782/2013”.

2. Definitions
In this Proclamation, unless the context otherwise requires:

1/ “seed” means true botanical seed, bulbs, tubers, cuttings, rhizomes, roots, seedlings or any other plant propagating material intended for planting;

2/ “approved seed” means domestically-produced or imported seed certified as conforming to the Ethiopian seed standards;

3/ “emergency seed” means seed of a known provenance that is intended to meet an acute seed shortage;

4/ “prescribed seed” means any seed that fulfills the minimum seed standard or to which the necessary quality control is undertaken and supplied to market or determined by directive of the Ministry to be issued hereunder to be supplied to market;

5/ “Ethiopian seed standards” means the minimum limits of germination, varietal purity, physical purity and other quality attributes of prescribed seed as set by the Ethiopian Standards Agency;

6/ “generation” means each successive multiplication cycle seed undergoes;

7/ “breeder seed” means seed of the first generation of seed multiplication, produced under the direct control of the breeder or his assigned representative;
1/ "pre-basic seed" means seed that has been produced from breeder seed;

2/ "basic seed" means seed that has been produced from pre-basic seed;

3/ "certified seed" means a direct descent seed from basic seed or a seed found in first, second and third generation of basic seed;

4/ "modified organism" means any biological entity which has been artificially synthesized, or in which the genetic material or the expression of any of its traits has been changed by the introduction of any foreign gene or any other chemical whether taken from another organism, from a fossil organism or artificially synthesized;

5/ "quality control" means the process of evaluating the quality of a seed for compliance with Ethiopian seed standards;

6/ "quality declared seed" means seed produced by organized and registered smallholder farmers or registered small holder farmers, in conformity with the required quality standards;

7/ "restricted seed" means seed prohibited from being marketed in, imported into, or exported from, Ethiopia by directive of the Ministry;

8/ "variety" means plant grouping within a single botanical taxon of the lowest known rank that can be;

   a) defined by the expression of the characteristics of a given genotype or combination of genotypes;

   b) distinguished from any other plant grouping by the expression of at least one of the said characteristics; and
3. Scope of Application

1/ Without prejudice to the provision of sub-article (2) of this Article, this Proclamation shall be applicable to any seed.

2/ This Proclamation may not be applicable to:

a) the use of farm-saved seed by any person;

b) the exchange or sale of farm-saved seed among smallholder farmers or agro-pastoralists;

c) considered as a unit with regard to its suitability for being propagated unchanged;

16/ “Ministry” means the Ministry of Agriculture;

17/ “release of variety” means permission by which a registered seed can be multiplied, produced or supplied to domestic market;

18/ “region” means any state referred to in Article 47(1) of the Constitution of the Federal Democratic Republic of Ethiopia and includes the Addis Ababa and Dire Dawa city administrations;

19/ “regional authority” means the authority responsible for agriculture at the regional level;

20/ “person” means any natural or juridical person;

21/ any expression in the masculine gender includes the feminine.
PART TWO

VARIETY RELEASE AND REGISTRATION

4. Release of Varieties

1/ Any variety intended for domestic or export market shall be released by the Ministry before it is produced locally.

2/ The Ministry shall set up evaluation committees that evaluate from time to time the technical performances of candidate varieties, and a National Variety Release Committee that propose varieties for release based on the reports of the evaluation committees.

3/ The structures and the procedures of operations of the committees shall be prescribed by directive of the Ministry.

5. National Variety Register

1/ The Ministry shall enter varieties released in accordance with Article 4 of this Proclamation in the National Variety Register.

2/ The National Variety Register shall include a list of other persons appointed by the Ministry to maintain the genetic identity of the varieties and to undertake producing and marketing of breeder seeds in the event the breeders are unable or unwilling to perform those functions.

c) seed to be used for research purposes; and

d) forestry seed.
6. Seed Production

1/ Any person who intends to engage in commercial seed production shall have a certificate of competence.

2/ Any person engaged in commercial seed production shall establish an internal seed quality control system.

3/ Any seed producer holding a certificate of competence may, subject to any other applicable legislation, access breeder seeds, pre-basic seeds and basic seeds from registered varieties producing institutions.

7. Integrated Production Planning

1/ The production of seeds for domestic consumption shall be executed on the basis of integrated planning.

2/ The Ministry shall keep a seed production database containing:

a) annual production plan and due responsibilities of actors;

b) annual production of seeds, by type of seed, by producers and the aggregate;

c) land, infrastructure and other resources used to produce seed; and

d) any other information relevant to national seed production.

3/ The seed production database shall be part of, or attached to, the register of seed producers and distributors referred to in Article 9 of this Proclamation.
8. Distribution
Any person in order to engage in commercial seed distribution shall have a certificate of competence.

9. Register of Seed Producers and Distributers
The Ministry shall maintain a register of seed producers and distributers.

PART FOUR
QUALITY CONTROL AND ASSURANCE

10. Standards
The Ministry shall cooperate with Ethiopian Standard Agency in developing seed standards.

11. Seed Testing Laboratories
1/ The Ministry shall:
   a) facilitate the implementation of internationally recognized seed testing procedures by all seed testing laboratories in the country;
   b) establish the accreditation criteria of seed testing laboratories;
   c) establish or designate an internationally recognized seed testing laboratory;
   d) ensure that regional seed testing laboratories are in conformity with the acceptable standard.
2/ The regional authority shall facilitate the accreditation of regional seed testing laboratories.

12. Seed Quality Control
1/ The regional authority shall undertake seed quality control on seed produced in the region for domestic market.
2/ The Ministry:

a) shall formulate procedures for quality control of seed;

b) shall verify the conformity of imported seeds with the Ethiopian seed standards;

c) shall verify that the quality of seed produced for export market is in conformity with the standards of the recipient country;

d) may recognize any foreign competent seed certification agency and the results of its tests when it ascertains that they are in conformity with the Ethiopian seed quality testing system.

13. Certificates of Seed Quality

1/ The regional authority shall, after ascertaining that seed produced and processed in the region for supply to the domestic market:

a) is listed in the National Variety Register;

b) has been produced and processed by a person holding a certificate of competence;

c) has been tested in accordance with this Proclamation and found to be in conformity with the applicable Ethiopian seed standards; and

d) fulfills any other requirement as may be specified by directive of the Ministry;

upon payment of the prescribed fee in accordance with the regulation to be issued hereunder, issue a certificate of seed quality for certified seed or quality declared seed.
The Ministry shall, after ascertaining that an imported seed:

a) is listed in the National Variety Register;

b) is imported by a seed importer holding a certificate of competence;

c) has been tested in accordance with this Proclamation and found to be in conformity with the applicable Ethiopian seed standards; and

d) fulfills any other requirement as may be specified by directive of the Ministry;

upon payment of the prescribed fee in accordance with the regulation to be issued hereunder, issue a certificate of seed quality with respect to such seed.

3/ The Ministry shall, after ascertaining that seed for export:

a) is listed in the National Variety Register;

b) is produced and processed by a person holding a certificate of competence; and

c) fulfills any other requirement as may be specified by directive of the Ministry;

upon payment of the prescribed fee in accordance with the regulation to be issued hereunder, issue a certificate of seed quality with respect to such seed.

4/ Any certificate of seed quality may be revoked where:

a) it is found to have been obtained on the basis of false, misleading or incomplete information; or
b) the seed is found not to meet the applicable Ethiopian seed standards following a post-control conducted under Article 15 of this Proclamation or any re-testing of seed quality.

5/ Prior to revoking a certificate of seed quality, the Ministry or regional authority shall notify the holder of the certificate and give him the opportunity to be heard.

14. Labeling

No seed may be supplied to domestic or foreign market unless labeled in accordance with directive of the Ministry.

15. Post-Control

Irrespective of the fact that a seed is supplied to market upon obtaining a certificate of seed quality, post distribution samples shall be taken and laboratory test be conducted where there is a reason to suspect the non-conformity of the seed to the required quality standards.

16. Nonconforming Seed

1/ Where a seed fails to meet the applicable standards, it shall be downgraded or rejected.

2/ Any person whose seed has been rejected shall be given the option to:

a) use it for re-planting in his own fields; or

b) supply it for use as food or feed, unless it is found to be contaminated or otherwise unfit for such use.
17. Import and Export of Seed

1/ No person may import or export seed without an import or export permit issued by the Ministry upon fulfillment of the requirements specified by directive of the Ministry.

2/ Any variety of seed to be imported for multiplication purposes shall be subject to prior verification and adaptation trials as established by the National Variety Release Committee and shall be listed in the National Variety Register in accordance with this Proclamation. Provided, however, that for the purpose of strengthening agricultural export market the Ministry shall determine by directive the exceptional case of supplying to export market unregistered seed by multiplying or producing.

3/ Any seed with genetically modified organisms may be imported if the Ministry receives prior assurance of its compliance with the applicable legislation from the Environmental Protection Authority.

4/ No person may:
   a) import or export restricted seed; or
   b) import any seed containing terminator gene technology.
PART FIVE
CERTIFICATE OF COMPETENCE

18. Supply of Emergency Seed

In case of an acute seed shortage in Ethiopia, the Ministry shall have the power to announce officially a seed shortage emergency and to authorize the supply of emergency seed to affected areas.


1/ Any importer or exporter of seed shall obtain a certificate of competence issued by the Ministry.

2/ Any producer, processor, wholesaler, distributor or retailer of seed shall obtain a certificate of competence from:

a) the regional authority where his business is operated within the region; or

b) from the Ministry where his business is operated in more than one region.

20. Issuance of Certificate of Competence

1/ The Ministry or the regional authority shall examine an application submitted for obtaining a certificate of competence to ascertain that the applicant satisfies the requirements prescribed by directive of the Ministry and issue, upon payment of the prescribed fee in accordance with the regulation to be issued hereunder, the certificate of competence in question.
When any application for a certificate of competence is rejected, the Ministry or the regional authority shall communicate same to the applicant by stating the reasons thereof.

The duration of validity of certificates of competence and conditions of their renewals shall be prescribed by directive of the Ministry.

21. Suspension and Revocation of Certificate of Competence

1/ Where any person holding a certificate of competence:

a) fails to maintain the conditions on the basis of which the certificate of competence was issued; or

b) contravenes any provision of this Proclamation or regulation or directive issued hereunder;

the Ministry or the regional authority may suspend the certificate of competence and instruct the holder to rectify the irregularities within a specified reasonable period of time.

2/ The Ministry or the regional authority may revoke any certificate of competence where the holder of the certificate:

a) is found to have obtained the certificate of competence upon presentation of false evidence; or

b) in the case of suspension under sub-article (1) of this Article, fails to rectify the irregularities within the specified time limit; or
1/ The Ministry or the regional authority, upon revoking a certificate of competence, shall notify same, in writing, to the authority that issued a business license on the basis of the certificate in question.

22. Records and Access to Information

Any holder of a certificate of competence shall:

1/ record and keep particulars of each field and seed produced, processed, imported, exported, distributed or retailed, as the case may be;

2/ keep samples of seed on which laboratory test have been made for at least one year; and

3/ furnish such information and samples upon request by an inspector assigned under Article 23 of this Proclamation.

PART SIX

MISCELLANEOUS PROVISIONS

23. Seed Inspection

1/ The Ministry and each regional authority shall appoint seed inspectors to ensure compliance with this Proclamation and regulations and directives issued hereunder.
Any seed inspector assigned pursuant to sub-article (1) of this Article may:

a) take seed samples to make laboratory test in order to determine that a seed conforms to the applicable Ethiopian seed standards;

b) require the production of and inspect certificates, permits, records and other documents relevant to ensure compliance with this Proclamation and regulations and directives issued hereunder, and make copies thereof;

c) enter, at working hours, any field, store or seed processing plant, or at any time stop a vehicle which carries seed, and undertake inspection to verify compliance with this Proclamation and regulations and directives issued hereunder.

Any seed inspector shall show to the concerned person the identity card issued to him by the Ministry or the regional authority to undertake seed inspection pursuant to sub-article (2) of this Article.

The concerned person shall cooperate with a seed inspector in the course of inspection undertaken in accordance with sub-article (2) of this Article.

The Ministry shall ensure standardized inspection procedures throughout the country and provide inspection training and support to regional authorities where necessary.
14. Federal and Regional Governments Cooperation

The regional authorities shall collaborate with the Ministry and among themselves to ensure uniform application of this Proclamation and regulations and directives issued hereunder.

25. Grievance Procedure

1/ Any person aggrieved by decision made in accordance with the provision of this Proclamation may apply to the Ministry or regional authority within 30 days of knowing such decision.

2/ Any person who is unsatisfied by the decision of the Ministry or the regional authority may appeal to the concerned justice organ within 30 days.

26. Offences and Penalties

1/ Any person who:
   a) supplies to the domestic market any seed not registered and quality controlled in accordance with this Proclamation, or which does not meet the applicable Ethiopian seed standards; or
   b) gives anything of value to cause the commission of fraudulent act in the course of production, processing, marketing or quality control of seeds;

shall be guilty of an offence and be punishable with rigorous imprisonment from five to ten years and with a fine from Birr 50,000 to Birr 100,000.

2/ Any person who:
   a) presents wrong seed sample for testing;
   b) tampers with any sample taken under this Proclamation;
c) gives false information in making any application under this Proclamation;

d) fails to observe the labeling provisions under Article 14 of this Proclamation; or
e) alters, defaces, or removes any register, certificate, label, or other official record created or issued under this Proclamation;

shall be guilty of an offence and be punishable with rigorous imprisonment from three to five years and with a fine from Birr 30,000 to Birr 50,000.

3/ Any person who:

a) refuses to cooperate with or obstructs the work of a seed inspector exercising his powers under this Proclamation;

b) contravenes other provisions of this Proclamation;

shall be guilty of an offence and be punishable with imprisonment upto one year and with a fine from Birr 5,000 to Birr 10,000.

4/ Any official or personnel of the Ministry or a regional authority who in exchange for value or due to kinship or other personal relationship, causes the registration of a variety or the issuance of a certificate or import or export permit while the requirements provided under this Proclamation, or regulations or directives issued hereunder are not met shall be guilty of an offence and be punishable with rigorous imprisonment from ten to fifteen years and with a fine from Birr 20,000 to Birr 50,000.
27. Power to Issue Regulation and Directive

1/ The Council of Ministers may issue regulations necessary for the implementation of this Proclamation.

2/ The Ministry may issue directives necessary for the implementation of this Proclamation and regulations issued under sub-article (1) of this Article.

28. Repealed Laws

The Seed Proclamation No. 206/2000 is hereby repealed.

29. Effective Date

This Proclamation shall enter into force on the date of publication in the Federal Negarit Gazette.

Done at Addis Ababa, this 15th day of February, 2013.

GIRMA WOLDEGIORGIS
PRESIDENT OF THE FEDERAL
DEMOCRATIC REPUBLIC OF ETHIOPIA