

Kingdom of Cambodia

Nation Religion King

LAW ON
SEED MANAGEMENT
AND
PLANT BREEDER'S RIGHTS

Minister of the Ministry of Agriculture, Forestry and Fisheries

07 January 2009

A Note on the English Translation

As part of its support to the General Directorate of Agriculture, the FAO/EU Food Facility Project has prepared this revised translation of the above Law. At the Final Steering Committee Meeting of the Project in June 2011, it was agreed that this would now be regarded as the standard English version which should be used in future. It has therefore been printed for distribution to all interested parties and earlier versions should be discarded to avoid confusion. Further copies are available from the General Directorate of Agriculture and the FAO Office.

While the utmost care has been taken during preparation, this translation is provided for information only. The objective is to make the meaning of the Law clear and to use the most appropriate legal and technical wording in English. The original Khmer version would have precedence in any proceedings under the Law, or in formulating the implementing regulations. As of June 2011, no such regulations have been prepared but that may be addressed in the near future.

Some of the definitions used in the Appendix are unconventional in English but their intended meaning should still be clear to the reader and it is not appropriate to modify them during translation. Moreover, in respect of the articles relating to Plant Variety Protection (Chapter 2), the definitions may be subject to scrutiny if the Law is submitted to The Union for the Protection of New Varieties of Plants (UPOV) for review if an application is made for membership of the Union.

Michael R. Turner
June 2011

PREFACE

This law on seed management and plant breeder's rights is an outcome of nearly seven years work by the Ministry of Agriculture, Forestry and Fisheries, who prepared this document, and cooperated with the Ministry of Industry, Mines and Energy in relation to the intellectual property rights of plant breeders.

Under the inspired leadership of Prime Minister SAMDACH AKEAK MOHA SENATHIPDEY DECHOU HUN SEN, Cambodia became a member of the World Trade Organisation on 13 October 2004. As a result, Cambodia must introduce many laws to meet the requirements of WTO and to facilitate the integration of Cambodia into the world economic community. This law on seed management and plant breeder's rights meets one such condition to be fulfilled. Considering Cambodia's dependence on agriculture; the government has clearly determined its strategy to raise agricultural productivity and promote diversification, as a key contribution to poverty reduction.

Seed is an essential input for increasing agricultural productivity. In fact, by using appropriate varieties with good seed quality, we can achieve many benefits including higher yields, lower production costs, better crop quality, especially uniform size grain which is easy to process and commands a higher market price. At present, the production, trading and marketing of seeds does not have any clear control procedures to ensure seed quality for farmers or to regulate the import-export of seeds. Moreover we need to provide protection of plant breeder's rights consistent with the International Union for the Protection of New Varieties of Plants (UPOV) to promote

The law on Seed Management and Plant Breeder's Rights was approved unanimously by Parliament on 08 April 2008 and likewise by the Senate on 29 April 2008.

To increase awareness among agricultural staff and farmers for ensuring effective implementation, the Ministry of Agriculture, Forestry and Fisheries with support from the General Directorate of Agriculture has printed this law for distribution to its line departments and staff who will implement the law and disseminated it widely to farming communities. The Ministry of Agriculture, Forestry and Fisheries is confident that this law on seed management and plant breeder's rights will be an important and efficient tool for raising awareness as well as improving the contribution of plant breeders, seed traders and farmers in raising crop production in Cambodia.

I would like to express my gratitude to all colleagues and working groups of the two ministries who have cooperated closely to achieve good success in the integration of two laws into one. At the same time, our sincere thanks go to the Council of Ministers, Parliament and Senate that supported the preparation and approving of this valuable law to meet the needs of the Royal Government of Cambodia as a member of WTO and according to the initiative of ADB.

Phnom Penh, 07 January 2009
Minister of the Ministry of Agriculture, Forestry and Fisheries

PREAH REACH KRAM

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I, PREAH KARUNA PREAH BAT SAMDECH PREAH BAROMNEATH NORODOM SIHAMONI SAMANPHUM CHEAT SASNA RAKHATYA KHEMARARATREAS PUTHINTREAMOHAKHSAT KHEMREACHNEA SAMOHUOPHEAS KAMPUCHEA EKREACH RAT BORANAKSANTE SOPHAK MONGKOLEA SEREY VEBOLEA KHEMARA SREY PIREAS PREAH CHAU KRONG KAMPUCHEA THIPDEY

- Having seen the Constitution of Cambodia
- Having seen the Royal Decree No. NS/RD/0704 /124 dated July 15, 2004 on the appointment of the Government of Cambodia
- Having seen the Royal Kram No. 02/NS /94 dated July 20, 1994 on the promulgation of law on organization and functioning of the Council of Ministers
- Having seen the Royal Kram No. NS/RD /0196 /13 dated on January 24, 1996 on the promulgation of law on the formation of the Ministry of Agriculture, Forestry and Fishery
- Having seen the statement of Samdech Akka Moha Sena Padei Techo Hun Sen, the Prime Minister of the Kingdom of Cambodia and Minister of the Ministry of Agriculture, Forestry and Fisheries

HEREBY PROMULGATE

The Law on Seed Management and Plant Breeder's Right as ratified by the National Assembly on April 08, 2008 at the seventh plenary session of the third legislature in which the Senate entirely endorsed on April 29, 2008 the form and legal concepts of this law without making any changes in the plenary session of the Senate of the second legislature and whose meaning is as follows:

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CHAPTER 1 GENERAL PROVISIONS

Article 1

This law is intended to manage and control the breeding, release, modification, listing, distribution and export-import of seeds and the protection of new varieties of plants in the Kingdom of Cambodia.

Article 2

This law is intended to ensure the management, encouragement and sustainable development of seeds for the social, economic, and environmental benefits.

Article 3

This law applies to all seeds, including existing and new varieties of plants, except where the management is defined by other concerned laws.

Article 4

The granting of the right to protect a new plant variety is under the jurisdiction of the Ministry of Industry, Mines and Energy.

The management of all other matters relating to seeds is under the general jurisdiction of the Ministry of Agriculture, Forestry and Fishery.

Article 5

A glossary of terms used in this law is contained in the appendix to this law.

CHAPTER 2 PROTECTION OF NEW VARIETIES OF PLANTS

SECTION 1 CONDITIONS FOR GRANTING THE PLANT BREEDER'S RIGHT

Article 6

To be eligible for protection, new varieties of plants shall satisfy the following criteria:

- Novelty
- Distinctness
- Uniformity
- Stability

Article 7

Varieties are considered to be new as long as they have not been sold or circulated in the market. However, with the agreement of the breeder, new varieties may be sold or circulated in the market in the Kingdom of Cambodia, for a period not exceeding one year, or for varieties which come from outside the Kingdom of Cambodia, a period of six years for vines and trees, and a period of four years for all other crops, in all cases starting from the day of applying for the right of protection.

Article 8

Varieties are considered to be distinct if they are clearly distinguishable from any other varieties which are generally known and recognized on the date of applying for the right or the priority right.

Article 9

Varieties are considered to be uniform if they show sufficient uniformity in the relevant characteristics, whether those varieties are reproduced sexually or asexually.

Article 10

Varieties are considered to be stable if their necessary relevant characteristics remain unchanged in all stages of the growth cycle and in successive generations of multiplication.

SECTION 2 SCOPE AND VALIDITY OF THE PLANT BREEDER'S RIGHT

Article 11

A natural person or legal person who has bred or discovered and developed a new variety and has the intention to protect the intellectual property of that variety shall file an application in the Ministry of Industry, Mines and Energy. All documents of application shall be submitted to the Ministry of Agriculture, Forestry and Fishery to evaluate the technical outcomes in compliance with the provision of this law.

The certificate of plant breeder's right shall be granted by the Ministry of Industry, Mines and Energy following the result of the technical evaluation by the Ministry of Agriculture, Forestry and Fishery.

Article 12

The Ministry of Industry, Mines and Energy has the following roles in respect of the protection of new varieties of plants:

1. Granting the certificate of protection of a new variety
2. Transferring ownership
3. Declaring nullity or cancellation
4. Accepting forms for registering, changing, or cancelling a variety denomination
5. Issuing licenses
6. Registering contract licenses.

Article 13

An applicant for the protection of a new plant variety shall:

- a. be a Khmer citizen or a foreign citizen who has resident status in the Kingdom of Cambodia, or
- b. have a permanent residence in signatory state of the Convention of the International Union for the Protection of New Varieties of Plants or in any state which has a memorandum of understanding with the Kingdom of Cambodia regarding plant variety protection.

Article 14

The owner of a new plant variety shall have the right to sell or transfer its ownership. Selling or transfer made to a natural person or legal person shall be made in writing and signed by the party concerned and recorded at the Ministry of Industry, Mines and Energy and also giving notice to the Ministry of Agriculture, Forestry and Fishery.

Article 15

Acts in respect of propagating material of a protected variety for the production or multiplication, conditioning for the purpose of propagation, offering for sale, selling or other marketing, exporting, importing and stocking for any the purposes shall require the authorization of the breeder.

The breeder may make this authorization subject to conditions and limitations.

Making a business as stipulated in paragraph 1 of this article, or using harvested products arising from the unauthorized use of a protected variety, shall require the authorization of the breeder. The owner has proper opportunities to exercise his right. If the owner knows of the unauthorized use or business in the harvested products of a protected variety but did not exercise his right, then he will lose the file a complaint to the court.

The plant breeder's right also covers the varieties listed below:

- Varieties which are essentially-derived from a protected variety, where the protected variety is not itself an essentially-derived variety
- Varieties which are not clearly distinguishable from a protected variety
- Varieties whose production requires the repeated use of a protected variety.

Article 16

The Breeder's Right shall not extend to:

1. Acts done for experimental purposes
2. Acts done privately and for non-commercial purposes
3. Acts done for the purpose of breeding other varieties, except where paragraph 4 of article 15 of this law applies.

Based on the legal protection of interest and limitation of the owner's right of the new plant variety, the Ministry of Industry, Mines and Energy shall cooperate with the Ministry of Agriculture, Forestry and Fishery to issue regulations that limit the rights of owners of protected varieties in order to permit farmers to use those varieties for propagating purposes, on their own holding.

Article 17

As stated in paragraph 4 of article 15, the owner of a protected variety shall lose the right of protection, if the owner or person authorized by the breeder sells or circulates them in the market in the Kingdom of Cambodia. The right shall not be lost if the protected variety is used for further propagation or for an export of materials of the variety, which enables the propagation of the variety in a country which does not protect varieties of the plant genus or species to which the variety belongs, unless the exported materials is exclusively for final consumption purposes.

Article 18

While using the right, the owner of a protected variety has a responsibility to provide seed samples which can be grown and which show the characteristics as stated in the application form for the grant of protection as required by the competent authority

In order to retain protection of the variety, the owner is also obliged to give information on the protected variety and make it easy for the competent authority to inspect material of the variety.

Article 19

The validity of the breeder's right is twenty years from the date of the grant of breeder's right or twenty-five years for trees and vines.

SECTION 3 TERMINATION, NULLITY AND CANCELLATION

Article 20

The owner of the right may surrender the right by giving written notice to the registrar of the Ministry of Industry, Mines and Energy; the right of protection of a new plant variety shall then be terminated before the expiry date of its validity.

The date of termination shall be stated in the notice or if there is no clear date of application for termination in the notice, the date when the registrar received the notice shall be applied.

Article 21

The registrar shall declare a breeder's right to be null if it is established that:

1. The conditions laid down in Articles 7 or 8 were not complied with at the time of the grant of breeder's right
2. The grant of the breeder's right has been essentially based upon information and documents furnished by the breeder, in which the conditions laid down in Articles 9 or 10 were not complied with at the time of the grant of the breeder's right
3. The breeder's right has been granted to a person who is not entitled to it, unless it is transferred to a person who is so entitled.

Article 22

The registrar may cancel a breeder's right if it is established that:

1. The conditions laid down in Articles 9 or 10 are no longer fulfilled
2. The owner fails to meet the requirements of the registrar such as:
 - a. Not providing the authority with the information, documents or materials deemed necessary for verifying the maintenance of the variety
 - b. Failing to pay such fees as may be payable to keep the right in force, or
 - c. Does not propose another suitable denomination, where the denomination of the variety is cancelled after the grant of right.

SECTION 4 APPLICATION AND PRIORITY RIGHT

Article 23

The applicant for protection of a new plant variety shall submit the application to the registrar using the standard form provided.

The applicant shall state or provide the necessary information and documents or seeds in accordance with the date and place set by the registrar.

The registrar shall register the date of accepting the form only after the fee payment has been received.

The standard form, documents or seeds required shall be established by a declaration of the Minister of Industry, Mines and Energy.

Article 24

The applicant can use the priority right of the first application form for the protection of the same variety in any country, which is a contracting party to the International Convention for the Protection of New Varieties of Plants.

In case of having more than one application form in other countries, the priority right will be given only to the first application.

The applicant shall state the priority right clearly in the application form submitted to the registrar, and the priority right shall apply for a period of 12 (twelve) months from the date of filing of the first application.

Article 25

To claim a priority right, the applicant shall provide a copy of the first application form, which is legally endorsed as the original one by the office that accepted the first application form within the period of 3 (three) months, starting from the date of application in the Kingdom of Cambodia.

Upon request, the registrar can allow reasonable additional time for the provision of information, documents or seeds.

If the registrar determines that the required conditions in paragraph 1 of this article are not properly met, the claim for the priority right will be considered as not being made.

SECTION 5 VARIETY DENOMINATION AND USES

Article 26

The applicant shall denominate a variety in compliance with the provision of this section.

The denomination of a new variety shall be regarded as inappropriate in the following cases:

- a. Does not identify the variety
- b. Has only one sign (*logo?*), except the sign that can identify the variety
- c. Makes the public misunderstand or confused with the characteristics or value or identity of the variety or the identity of the plant breeder
- d. Has the same denomination as an existing variety within the same species in Cambodia or in the state of a contracting party
- e. Has the same denomination as a variety which has obtained the right earlier.

Only the denomination used in the application form, or already registered in the state of a contracting party, shall be used for the application or registration in Cambodia. If a name is

considered to have inappropriate cultural meanings in the Kingdom of Cambodia, the registrar shall require the applicant to provide a new name.

Article 27

A person who does business with seeds of varieties that have obtained a grant of protection in the Kingdom of Cambodia shall use the names of the varieties registered, even if the right of protection has been invalid, unless any right obtained earlier prevents such use.

A business sign, business name, or similar form of identification can be attached with the name of the new variety if it was protected when the variety was released in the market.

Article 28

The registrar shall delete the denomination of a registered variety if the denomination should not have been registered. In this case, the owner shall propose a new denomination for registration.

Article 29

Prohibitions:

- Trade in a new variety that has obtained the right of protection in the Kingdom of Cambodia and has not used the registered variety denomination
- Trade in a new variety that has obtained the right of protection in the Kingdom of Cambodia on another variety of the same species intentionally.

SECTION 6 EXAMINATION OF THE APPLICATION AND PUBLICATION

Article 30

The registrar shall examine the application for protection in order to decide that it has complied with the conditions of novelty, distinctness, uniformity and stability. If those conditions have not been satisfied, the registrar shall reject the application.

To determine the distinctness, uniformity and stability of the variety, the registrar shall submit the application document to the Ministry of Agriculture, Forestry and Fishery to study and evaluate the technical outcomes.

If the evaluation of the technical results proves positive, and the request for denomination of the variety is approved for registration, the registrar shall grant a certificate of protection of the new variety and shall publish it in the official bulletin.

When the examination indicates that the denomination of the variety cannot be approved for registration, the registrar shall request the applicant to provide another denomination, within the period not exceeding three months. In case the applicant fails to meet this request, the application shall be rejected.

If the certificate for the protection of a new variety has been granted, the owner has the right to claim appropriate compensation for the activities stated in paragraph 1 of Article 15 of this law within in the period from the publication of the application until the granting of the right.

Article 31

The Ministry of Industry, Mines, and Energy shall publish necessary information concerned with the protection of new varieties in the official bulletin.

**SECTION 7
COMPLAINT AND APPEAL****Article 32**

A person concerned can file a complaint against the protection of a new variety to the registrar within the period of three months after the result of the examination has been published in the official bulletin.

Article 33

A person who is not satisfied with the decision made by the registrar on granting the right of protection of a new variety can appeal against that decision to the Ministry of Industry, Mines and Energy.

**SECTION 8
LICENSE AND COMPULSORY LICENSE****Article 34**

An applicant for the protection of a variety, or the owner of a protected variety, can grant a physical person or a legal person an exclusive license or a non-exclusive license relevant to all the rights or any right granted in compliance with this law.

Article 35

A physical person or a legal person can submit a request to the Minister of Ministry of Industry, Mines and Energy and the Minister of Ministry of Agriculture, Forestry and Fishery for a compulsory license for the use of a protected variety on the grounds of necessity in order to protect the public interest in the Kingdom of Cambodia. The holder of a compulsory license in conformity with this article shall pay proper compensation to the owner of the protected variety.

**SECTION 9
REGULATION AND FEE PAYMENT****Article 36**

The regulations for the implementation of Chapter 2 of this law shall be determined by a declaration made by the Minister of Industry, Mines and Energy and the Minister of Agriculture, Forestry and Fishery.

Article 37

A physical person or a legal person who has applied for the right of protection of a new variety shall pay an administration fee for registration and a fee for the annual maintenance of validity of the right of protection to the Ministry of Industry, Mines and Energy.

A physical person or a legal person who has requested a technical evaluation of a new variety shall pay the technical service fee to the Ministry of Agriculture, Forestry and Fishery.

The administration fee for registration, fee for maintenance of annual validity of the right of protection, and the technical service fee as stipulated in paragraphs 1 and 2 of this article, shall be determined by a joint declaration made by the Minister of Economy and Finance, the Minister of Industry, Mines and Energy, and the Minister of Agriculture, Forestry and Fishery.

SECTION 10 AGENT

Article 38

An application for protection of a new plant variety shall be submitted by a plant breeder or by a representative agent appointed by the plant breeder.

In case that the permanent residence or the business address of the applicant is located outside the Kingdom of Cambodia, the applicant shall appoint a representative agent whose permanent residence or place of employment is in the Kingdom of Cambodia.

A representative agent who has made a request for the registration of a new variety in the Kingdom of Cambodia shall demonstrate sufficient characteristics and shall meet the conditions as stated in the joint declaration made by the Minister of Agriculture, Forestry and Fishery, and the Minister of Industry, Mines and Energy.

CHAPTER 3 SEED MANAGEMENT

SECTION 1 NATIONAL LIST OF VARIETIES

Article 39

The Ministry of Agriculture, Forestry and Fishery shall prepare a national list including both existing and new varieties.

Article 40

Existing varieties can be registered in the list if they satisfy the following conditions:

1. Have a specific denomination in order to avoid confusion with other registered varieties or misunderstanding of the variety characteristics
2. Keep the original denomination of the variety, in case that the variety is imported.
3. Are distinct from any existing registered variety
4. Have adequate uniformity in the stable characteristics for identification of variety
5. Have clear data of variety testing conducted by a laboratory of the specialized technical unit, an institute of public research, or the private sector entity which provides technical services for seeds and which is recognized by the Ministry of Agriculture, Forestry and Fishery

SECTION 2 VARIETY QUALITY CERTIFICATE

Article 41

A physical person or a legal person who undertakes seed production for the purpose of sale shall apply for a variety quality certificate at the Ministry of Agriculture, Forestry and Fishery.

The application form and procedures for awarding a variety quality certificate shall be determined by a declaration made by the Ministry of Agriculture, Forestry and Fishery.

The fee for issuing a variety quality certificate shall be set by a joint declaration made by the Ministry of Agriculture, Forestry and Fishery, and the Ministry of Economy and Finance.

SECTION 3 SEED TRADE

Article 42

Seed trading shall require a license from the Ministry of Agriculture, Forestry and Fishery.

Transfer of a license for seed trading to another person shall require the agreement of the Ministry of Agriculture, Forestry and Fishery.

Article 43

A seed laboratory established with the object of seed trade shall have an agronomist recognized by the Ministry of Agriculture, Forestry and Fishery.

Article 44

The circulation of the seeds in the market is prohibited, if they:

1. have not been packaged, have not been packaged properly or have faked the package cover
2. have an expired date
3. do not have correct information on the package cover or label
4. do not have a label as prescribed by the regulation, or a falsified label or damaged label.

The information stated on the package cover or label shall be determined by a declaration made by the Ministry of Agriculture, Forestry and Fishery.

SECTION 4 SEED QUALITY CONTROL

Article 45

Seeds which are allowed to be traded in the Kingdom of Cambodia shall be quality seeds and shall go through a laboratory test or field trial done by a specialized technical unit, an institute of public research, or a private sector entity providing technical service on seeds and which is recognized by the Ministry of Agriculture, Forestry and Fishery.

Article 46

Seed testing, sampling, classification, definition of seed quality standards and procedures of inspection of seed quality shall be set by a declaration made by the Minister of Agriculture, Forestry and Fishery.

Article 47

If the result of seed testing has not met the conditions of the seed quality standards, the seed shall be reclassified under the inspection and evaluation of the Ministry of Agriculture, Forestry and Fishery. Those seeds cannot be sold in the market.

Article 48

The seed producer and the seed seller shall be responsible to the user for the seed quality information as stated on the package or label.

Article 49

If the user of seed has doubt about the seed quality, they can request a written certification of quality from the Ministry of Agriculture, Forestry and Fishery.

Complaints concerned with seed quality shall be filed within thirty days after purchase, but before sowing or planting. Complaints relating to the varietal characteristics or a change in a gene shall be made from the time the seed is purchased but before the crop is harvested.

The procedures for dealing with complaints shall be determined by a declaration made by the Minister of Agriculture, Forestry and Fishery.

Article 50

The Ministry of Agriculture, Forestry and Fishery has the right to suspend, confiscate, or revoke a permit for seed trade or a certificate of seed quality in the following cases:

1. The results of research indicate possible serious impacts on human health, animals, or environment because of the effects of seed use
2. Seed has been traded with a different quality from those stated in the certificate for seed quality or on the package or label
3. The holder of the permit for seed trade or the certificate for seed quality does not comply with the conditions set by the Ministry of Agriculture, Forestry and Fishery.

CHAPTER 4 SEED IMPORT, EXPORT AND TRANSIT

SECTION 1 SEED IMPORT AND EXPORT

Article 51

Export and import of seeds, including for variety testing, study, and experimentation shall require a permit issued by the Ministry of Agriculture, Forestry and Fishery.

Any change in ownership of the permit for export and import shall have the agreement in advance from the Ministry of Agriculture, Forestry and Fishery.

Article 52

A natural person or a legal person who imports seeds shall fulfill the following conditions:

1. make the declaration accurately
2. hold a certificate for seed quality issued by the authority of the exporting country
3. have an import permit issued by the Ministry of Agriculture, Forestry and Fishery
4. inform the Ministry of Agriculture, Forestry and Fishery at least 10 (ten) working days before the seeds arriving at the Cambodian border entry point
5. comply with the phytosanitary regulations of the Kingdom of Cambodia.

Article 53

The import of seeds which can cause grave or imminent danger in the Kingdom of Cambodia shall be strictly prohibited.

The list of seeds which can cause grave or imminent danger shall be decided by the Minister of Agriculture, Forestry and Fishery.

Article 54

The Ministry of Agriculture, Forestry and Fishery shall cancel the permit and ban the import and export of seeds if those seeds do not comply with the standards of seed quality.

Article 55

Produce which has been imported for industrial uses or other purposes shall not be allowed to be used as seeds.

Article 56

A natural person or a legal person who exports seeds shall satisfy the following conditions:

1. make the declaration accurately
2. hold an export permit issued by the Ministry of Agriculture, Forestry and Fishery
3. notify the nearest phytosanitary officer at least one (01) working days before the seeds arrive at the Cambodian border exit point
4. hold a certificate for seed quality
5. comply with the phytosanitary regulations of the importing country

Article 57

In case of necessity and for the national or public interests, the Minister of Agriculture, Forestry and Fishery has the right to impose a provisional or complete halt to the export of seeds from the Kingdom of Cambodia.

SECTION 2 SEED TRANSIT

Article 58

A natural person or a legal person who transports seeds through the Kingdom of Cambodia shall satisfy the following conditions:

1. report the goods accurately
2. have a certificate of seed quality issued by the authority of the exporting country
3. notify the Ministry of Agriculture, Forestry and Fishery at least five working days before the seeds arrive at the entry point by certifying the date and the exit point
4. ensure the quality and safety of the package cover, the method of storing seeds, and the hygiene of transporting method

5. not carry pests of plants or other hazardous components, which can be spread while in transit.

Article 59

During transit, if the safety seal has been removed and the container or the package has been damaged, the seed owner or the representative shall be responsible for reporting immediately to the nearest phytosanitary officer and the authority concerned to take proper actions.

Article 60

The phytosanitary officer shall inspect the hygiene of the means of transportation, both the outer parts of the package and the certificate for seed quality of the exporting country as well as the relevant papers and shall facilitate the rapid onward transportation.

CHAPTER 5 THE NATIONAL FUND FOR SEED DEVELOPMENT

Article 61

The Royal Government of Cambodia can establish a fund called "**The National Fund for Seed Development**" which is an institution of public administration for the support of research and seed development in order to enhance agricultural productivity.

The National Fund for Seed Development shall be under the technical support of the Ministry of Agriculture, Forestry and Fishery.

Article 62

The National Fund for Seed Development shall receive income from:

1. donated budget or other contributions of the Royal Government for the support of research and development related to seeds
2. donors, associations, non-governmental organizations, international organizations, and other partners in development
3. transitional fines for seed offences
4. other service charges related to seeds

The budget and income of the National Fund for Seed Development shall be paid into the account of the National Fund for Seed Development.

Article 63

The National Fund for Seed Development can be used for the following activities:

1. technological research into seed selection
2. experimentation on seed testing and seed breeding
3. educational promotion and technological training on seeds
4. participation as members in the regional or international organizations in the sector of seeds.

The Royal Government can determine the principles for rewarding a natural person or a legal person who has made an achievement in the creation, renovation, and bringing in genetic resources as well as efforts to conserve, produce, breed, test, and select varieties or in distribution and seed processing.

CHAPTER 6

SEED INSPECTORS

Article 64

The seed inspectors of the Ministry of Agriculture, Forestry and Fishery are competent and play a role as judicial police officers or judicial police agents.

Forms and procedures for the accreditation of seed inspectors as judicial police shall be determined by a joint declaration made by the Minister of Justice and the Minister of Agriculture, Forestry and Fishery as stated in Article 82 of the Criminal Procedure Code of the Kingdom of Cambodia.

Article 65

Seed inspectors have obligations and rights as follows:

1. to monitor and regularly supervise all kinds of business and activities concerned with the seeds in the Kingdom of Cambodia
2. to inspect all locations of business in all types of seeds, warehouses of stocks, factories, enterprises, including farms concerned or suspected of committing offence against this law
3. to confiscate the seed samples suspected of breaking this law for experimentation
4. to require business people to show the relevant licenses or other documents concerned with seed trade
5. to provisionally seize all kinds of licenses or other relevant documents if the holders of those licenses have committed offences against this law
6. in case of an actual offence, to have the right to ban or close a facility for transportation or storing seeds, to make provisional confiscation of the objects of offence and to make reports to the prosecutor.

Article 66

Phytosanitary officers have the obligation and right to perform their duties at the checkpoints of the international entry points, the bilateral border points, the border-area points, and seaports throughout the Kingdom of Cambodia.

Article 67

All levels of local authorities, armed forces, institutions of customs and excise, institutions of airports and seaports, and other authorities concerned, shall cooperate in the investigation and prevention of seed offences and provisionally maintain the objects of seed offences when there is a request made by the seed inspectors.

Article 68

While on duty, the seed inspector shall wear a uniform with a badge and shall have a letter of authority.

The uniform and badge of the seed inspectors shall be determined by a Sub-decree.

CHAPTER 7 LEGAL PENALTY

SECTION 1 OFFENCE AGAINST THE PROTECTION OF NEW VARIETIES OF PLANTS

Article 69

For all disputes concerning the application of Chapter 2 and its instructions, the complaint shall be filed with the registrar of plant variety protection.

The plaintiff shall have an opportunity for a hearing with the Registrar before applying the discretionary power provided to the plaintiff by this law and its orders.

Article 70

The owner of the new variety shall lodge a complaint to the court to have the compensation in accordance with the legal procedures as follows:

- bring civil action or request a provisional warrant to ban the conduct or the continued violation of the breeder's right
- request penalty, confiscation, destruction of seeds which have been produced against the breeder's breeder, and
- request damages to be paid in cash.

Article 71

Any person who gives untrue information in the application form for the variety protection shall be penalized and fined from 1,000,000 (one million) riels to 5,000,000 (five million) riels or sentenced from one month to six months in prison or shall face both kinds of punishments above. In case of repetition, he or she shall face double punishments.

Article 72

Any person who violates the right of new variety protection for the purpose as stated in Article 15 of Chapter 2 of this law shall be punished and fined from 5,000,000 (five million) riels to 20,000,000 (twenty million) riels or sentenced from one year to five years in prison or shall face both kinds of punishments above. In case of repetition of the offence, he or she shall face double these punishments.

Article 73

If a person is punished in accordance with the provision of this section, the court can issue the order to confiscate the seeds as the state property or to destroy the seeds that violate the objects of evidence and any equipment used to commit the offence.

SECTION 2 OFFENCE OF SEED TRADE

Article 74

The penalties for offences of seed trade are transitional punishment, detention of property, confiscation of property, destruction of property, requirement of repairing the damage, cancellation or suspension of a seed trade license, license for import and export of seed, a certificate of seed quality and sentence to imprisonment.

Transitional punishment for seed offences, detention of property, cancellation or suspension of a seed trade license, license for import and export of seed, and certificate for seed quality are under the authority of the Ministry of Agriculture, Forestry and Fishery.

If the offender does not comply with a decision made by the authority as stated in Paragraph 2 of this article, the Ministry of Agriculture, Forestry and Fishery shall send the complaint to the court.

The confiscation and destruction of property, the compensation for loss, fining, and sentence to imprisonment are the authorities of the court.

Article 75

The form of the transitional punishment and the market price of the seed for implementing the transitional punishment shall be determined by a declaration made by the Minister of Agriculture, Forestry, and Fishery.

Article 76

Fines used as incentives to those who have succeeded in preventing or detecting offences and the allocations to the National Fund for Seed Development shall be set by a joint declaration made by the Minister of Agriculture, Forestry, and Fishery and the Minister of Economy and Finance.

Article 77

Any holder of a seed trade license or license for import and export of seed who has transferred the ownership to another person without the agreement in advance from the Ministry of Agriculture, Forestry and Fishery shall be penalized by suspending that license for a period of one year.

In case of repetition of this offence, they shall be completely deprived of seed trade license or license to import and export seed and shall face the transitional punishment in compliance with Article 78 of this law.

Article 78

Any person that has committed the following offences shall be fined and required to pay a transitional fine of from 500,000 (five hundred thousand) riels to 5,000,000 (five million) riels:

1. not regularizing the registered variety in accordance with this law under the provisions within the period of six months after this law has come into effect
2. not having an agronomist recognized by the Ministry of Agriculture, Forestry and Fishery working in their seed laboratory
3. export, import and transit of seed which was conducted but did not:
 - report the goods accurately
 - notify the Ministry of Agriculture, Forestry and Fishery
 - report immediately when the safety seal has been removed during transit, or the container or package has been damaged, in order to take proper actions
 - comply with the phytosanitary regulations
 - package properly or used damaged packaging material or labels.

In case of repetition of the offence, the person shall be subject to a double transitional fine or shall be referred to the competent court.

Article 79

Any person who has committed the following offences shall be punished by a double transitional fine of the market price of the actual subject of the offence:

1. seed trade or import seed for the purpose of experimentation without a license issued by the Ministry of Agriculture, Forestry and Fishery
2. seed trading without a certificate for seed quality
3. importing products for industrial use, consumption, or other purposes, and using or processing them as seed
4. exporting or importing seed without:
 - having a license issued by the Ministry of Agriculture, Forestry and Fishery
 - having a certificate of seed quality
5. transit without having a certificate of seed quality issued by the authority of the exporting country
6. selling or circulating in the market, seed which:
 - is not of the quality stated on the package cover or labels,
 - are expired
 - have improperly designed labels

In case of repetition of the offence, the person shall be subject to a double transitional fine and shall be deprived of the trade license, the export or import license, or the certificate for seed quality, or the case shall be referred to the competent court.

Article 80

Any person who has committed the following offences shall be sentenced to from one month to one year and shall pay from 5,000,000 (five million) riels to 10,000,000 (ten million) in fines or shall face both kinds of punishments and shall be deprived of a license, a certificate for seed quality, by destroying all the properties or confiscating them as the state properties:

1. importing evil or hazardous seeds into the Kingdom of Cambodia
2. exporting seed against the state prohibition during necessary needs of state
3. misrepresenting the seed quality

In case of repetition of the offence, the person shall be subject to a double punishment, without considering the responsibility to the Civil Code, for impacts on public health or damage to the environment.

SECTION 3 OFFENCE COMMITTED BY LAW ENFORCEMENT OFFICIAL

Article 81

Any inspector or official who is careless or does not comply with the provisions of this law shall face an administrative punishment and /or charges before the court.

Any inspector or official who colludes with an offender or helps to facilitate the conduct of an offence shall be penalized in the same way as the offender.

**CHAPTER 8
TRANSITIONAL PROVISION**

Article 82

Seed which receives a certificate of seed quality or a seed trade license under various provisions shall be regularized in compliance with this law within a period of six months starting from the date of this law becoming effective.

**CHAPTER 9
FINAL PROVISIONS**

Article 83

Any provision that is in conflict with the provisions of this law shall be abrogated.

Article 84

This law shall be declared as urgent.

Royal Palace, Phnom Penh, 13 May 2008

ROYAL SIGNATURE AND SEAL

ពល. 0805.532

NORODOM SIHAMONI

Having submitted to the King for signature

THE PRIME MINISTER

SIGNATURE

SAMDECH AKKA MOHA SENA PADEI TECHO HUN SEN

Having submitted to Samdech Akka Moha Sena Padei Techo Hun Sen
The Prime Minister of the Kingdom of Cambodia
Minister of Agriculture, Forestry and Fishery

SIGNATURE

CHAN SARUN

No.: 495 ៩.០៧

For copying and distribution

Phnom Penh, 20 May 2008

Deputy Secretary-General of the Royal Government

[signature and seal]

KHUN CHIN KEN

APPENDIX TERMINOLOGY

A. Seed Processing

The drying, cleaning, processing, and packaging of seed for sale.

B. Transit

The transportation of seed through the Kingdom of Cambodia. Such transit excludes removing any of the goods stopping to unload the goods into the warehouse, opening the packages, and changing the method of transportation.

C. Seed Inspection

The inspection and analysis of samples, the investigation, exploration, and prevention of offences against this law.

D. Seed Testing

The activity of experimenting in the trial field and analysis of seed quality in the laboratory.

E. Release

The liberation of a new variety for public use after being approved by the committee of technical evaluation.

F. Container

Equipment used to store goods for transportation.

G. Seed Quality

The technical criteria of seed such as the moisture content, purity and germination and health of seed.

H. Seed Marketing

The buying, storing, distribution and selling of seed.

I. Registration Department

The department of the industrial property of the Ministry of Industry, Mines, and Energy.

J. Gene

A unit of reproduction which is able to transfer hereditary information from one generation to another or from parents to offspring.

K. Variety

Seeds or other plant materials that have the same characteristics and that are distinguished from other plants of the same species by one or more characteristics, and those characteristics are maintained when multiplied by seed or by other organs.

L. Seed

The gamete (egg) which have parts of embryos, nutrients and the covers for protecting seed or an organ which is used for sowing or growing or growing for crop production, although the reproduction takes place through sex or neuter, including all classifications of seed or

reproductive organs (such as seed for food crops, industrial crops, oil crops, animal foods or flowers and other crops for ornaments) and seedlings, roots, parts of grafted organs of plants through micro-breeding and other organs bred through organ.

M. Existing Variety

The variety being used and traded generally without anyone's ownership.

N. New Variety

A variety which was recently discovered and developed by plant breeders and broadly monopolized for the specific period determined by this law.

O. Contracting Party

A country or an international organization which is a party to the Convention of the International Union for the Protection of New Varieties of Plants (UPOV).

P. Registrar

The department of registration of the Ministry of Industry, Mines and Energy.

Q. Phytosanitary Regulation

A regulation that requires the phytosanitary authority of each country to prevent the spread of pests into Cambodia through the activity of goods import as the object of the phytosanitary inspection.

R. Certificate of New Plant Variety Protection

A certificate issued by the Ministry of Industry, Mines and Energy which gives a natural person or a legal person the ownership of a new variety.

S. Certificate of Seed Quality

A certificate issued by the Ministry of Agriculture, Forestry and Fishery which allows a natural person or legal person to trade in seeds and which is

T. Pest

Any animals or plants, both alive and dead, which in the phase of development, can cause damage or destruction to seeds. These pests include insects, lice, mice, snails, birds, which cause seeds to have diseases and unwanted weeds.

U. Safety Seal

The metal seal which ensures the safety of the goods in the container or without affecting the originality.

V. Standard

A prescribed criterion which is set by this law to determine the seed quality.

W. Seed Inspectors

A entity in charge of the management and inspection of seed quality with a clear organizational structure including department of agronomy and farmland improvement* and office of agronomy and farmland improvement *in both provinces and towns. (* Now named GDA and PDAs)

X. Seed Trade

The production, processing, export-import and circulation of seeds or seedlings

Y. Plant Breeder

A natural person or legal person who conserves, develops, or breeds, tests, selects, and liberates seeds and plants for the purpose of improvement of food crops and sustainable farming.