

**THE EAST AFRICAN COMMUNITY SEED AND PLANT VARIETIES  
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		<b>PART I – PRELIMINARY</b>
	Citation and Commencement	2. These Regulations may be cited as the East African Community Seed and Plant Varieties Regulations, ..... and shall come into force on such date as the Council may, by notice in the Gazette, appoint.
	Interpretation	<p>3. In these Regulations, unless the context otherwise requires-</p> <p>"<i>application</i>" means an application to submit a plant variety for national performance trials and Distinctness, Uniformity and Stability (DUS) tests release and registration; grant of plant breeder's rights.</p> <p>"<b>authorization</b>" means the delegation of some or all aspects of seed certification and seed testing services by the National Seed Authority to a competent private or public person;</p> <p>"<b>breeder</b>" means the person who breeds, or discovers and develops a seed or plant variety and includes the employer of such a person;</p> <p>"<b>compulsory certification</b>" means mandatory certification for those varieties that have been tested in National Performance Trials, officially released and listed in the National Variety List;</p> <p>"<b>commercialization</b>" means the distribution, sale or offering seed of a crop variety for sale to the public in any manner, including undertaking seed multiplication, conducting market research or seeking pre-market approval for a released crop variety;</p> <p>"<b>dressing or conditioning</b>" means a stage of seed processing where application of chemical substances on the surface of seeds is done as part of the seeds certification process;</p> <p>"<b>Distinctness, Uniformity and Stability (DUS) test</b>" means an evaluation to determine whether a new plant variety is distinct from any known plant variety in respect of specified characteristics, uniform in morphological, physiological or other accepted characteristics; and stable in its description after repeated reproduction or propagation;</p> <p>"<b>EAC Variety Catalogue</b>" means the list of all plant varieties which have been tested and released in at least 2 Partner States and in Commercial production in the region.</p> <p>"<b>field inspection</b>" means an examination of a crop seed field including checking for effective isolation distance, hectareage of the seed field, true-ness to type, off-types, foreign cultivars and diseased plants as part of the seed certification programme;</p> <p>"<b>labeling</b>" means the process of affixing a tag or identification mark so as to ensure correct identification of any container of seed;</p> <p>"<b>National Variety List</b>" means the list of all plant varieties which are for the time being have been tested, officially released for commercialization at Partner State</p> <p>"<b>plant variety</b>" means a plant grouping within a single botanical taxon of the lowest known rank, defined by the expression of the characteristics resulting from a given genotype or combination of genotypes distinguished from any other plant grouping by the expression of at least one of the said characteristics and considered as a unit in relation to its suitability for being propagated unchanged;</p>

	<p>;</p> <p>"<b>plant variety release</b>" means a process whereby a plant variety has satisfactorily undergone trials for performance against existing varieties; and distinctness, uniformity and stability tests and is approved for release by the National Variety Release Committee;</p> <p>"<b>reproductive material</b>" means the reproductive part of a plant including seeds and other vegetative propagation material;</p> <p>"<b>post control</b>" means the growing of plants from seed lots which have been tested or certified to further determine and confirm varietal purity and freedom from disease infestation;</p> <p>"<b>purity</b>" means the percentage by weight of pure seeds as determined by purity analysis in the seed laboratory;</p> <p>"<b>registration</b>" means the inclusion of a released variety in the National Variety List</p> <p>"<b>registered seed grower</b>" means a person or institution registered by the Service to grow seed crops;</p> <p>"<b>seed class</b>" means a stage in a seed multiplication system well defined in respect of parental seed standards of cultivation and seed quality;</p> <p>"<b>seed health</b>" means the level of freedom of either the seed or the seed crop from seed-borne diseases and pests;</p> <p>"<b>seed inspector</b>" means a suitably qualified person appointed or authorized under Laws of Partner States</p> <p>"<b>seed lot</b>" means a specified quantity of seed which measures to prescribed maximum weight and which is represented by one sample in laboratory seed testing or in post control plots, and is homogeneous and physically identifiable by a unique reference number;</p> <p>"<b>seed processing</b>" means all those treatments that the seed is subjected to between harvesting and sale but does not include seed testing,;</p> <p>"<b>seed production</b>" means all the operations leading up to and including final harvesting of the seed from the seed crop field;</p> <p>"<b>seed quality</b>" means the set minimum standards varietal purity, genetic and physical purity, germination capacity, and freedom from noxious weeds, seed borne diseases and pests</p> <p>"<b>seed testing</b>" means the examination of a sample of seed with a view to determining its quality;</p> <p>"<b>seed testing laboratory</b>" means a laboratory for the testing of seed, declared by notice in the Gazette to be a seed testing laboratory;</p> <p>"<b>seed</b>" means that part of a plant which is or is intended to be used for propagation and includes any seed, seedling, corm, cutting, bulb, bulbil, layer, marcott, root, runner, scion, set, split, stem, stock, stump, sucker or tuber so used or intended to be so used;</p> <p>"<b>seed crop</b>" means a crop grown for the production of certified seed;</p>
	<p><b>PART II – PLANT VARIETY EVALUATION, RELEASE AND REGISTRATION</b></p>

	<p>Application for Variety testing and Release</p>	<p>4. (1) Any person who wishes to release a crop variety for commercialization in the EAC region, shall apply for testing and release of the variety. This application will be made in form .....</p> <p>(2) An application for a variety evaluation shall be made to the National Seed Authority of the Partner State where the release is intended, in form..... and shall be accompanied by such other information relating to the variety as the National Authority may prescribe.</p> <p>(3) An application under paragraph (2) shall be accompanied with a reference sample to the NSA in addition to the delivery of testing material as maybe required by the NSA in terms of quantity, quality and delivery point.</p> <p>(4) The variety trials and the associated tests will be carried out or supervised by the NSA in accordance with the National Law and Regulations that are approved by the Partner States</p> <p>(5) A Variety shall only be released after being subjected to the following tests for 2 seasons:</p> <p>(a) Distinctness, Uniformity and Stability test carried out in accordance with EAC approved guidelines;</p> <p>(b) Value for cultivation and Use (VCU) or National Performance Trials.</p> <p>(6) Any variety intended for release into the EAC Variety Release System must satisfies the requirements set out in sub-regulation (2)</p> <p>(7) The National Seed Authority in each Partner State shall ensure that there is a National Variety Release Committee that will oversee the variety testing and release procedure as approved in the EAC region</p> <p>8. The National Seed Authority will maintain records of the trials that will be shared with Partner States and EAC Seed Coordination Office, including but not limited:</p> <p>a) names of the applicants, dates of applications and particulars of the plant variety entered for performance trials;</p> <p>b) decisions of the National Variety Release Committees on all applications;</p> <p>c) the date with effect from which an application for a performance trial is deemed to be withdrawn;</p> <p>d) performance trials reports; and</p> <p>e) the fee paid by the applicant.</p>
	<p>Variety Release</p>	<p>5. (1) A plant variety which has been tested and released in any one Partner State shall undergo performance trial for at least one season in similar agro ecological zones in the Second State to be released, provided the applicant provides the data leading to release of the plant variety in the first Partner State</p>

		<p>(2) A plant Variety released in two Partner States will not be required to undergo variety tests to be commercialized in the other Partner States.</p> <p>3) The applicant shall designate a variety by a denomination that will be its generic designation subject to approval by the NSA before release.</p> <p>(4) The denomination designated under sub-regulation 3 shall not mislead or cause confusion with regard to the characteristics, value, or identity of the variety or the breeder.</p> <p>(5) A variety shall bear the same name in all Partner States unless a National Seed Authority in a State considers the name unsuitable, in which case a synonym may be used.</p> <p>(6) The applicant of a variety shall submit a reference sample to the National Seed Authorities in the other Partner States releasing the variety. The seed in the reference sample submitted shall meet the requirements set out in the law and regulations of the Partner State.</p> <p>(7) The applicant of the variety will indicate who the maintainer of the released variety together with their detail.</p> <p>(8) The maintainer of a variety shall –</p> <ul style="list-style-type: none"><li>(a) be responsible for the maintenance of the genetic purity of the variety; and</li><li>(b) provide the seed material to the Authority at any time during the period of registration.</li></ul>
	EAC Variety Catalogue and Variety Registration	<p>6 (1) The EAC Seed Coordination office will maintain the EAC Variety Catalogue which will contain all the details of varieties released in the region</p> <p>(2) An applicant for registration of a new variety in the EAC Catalogue shall provide the requisite information which includes-</p> <ul style="list-style-type: none"><li>(a) results of two seasons of VCU tests;</li><li>(b) DUS test report</li><li>(c) suggested denomination;</li><li>(d) proof of release in two Partner States; and</li><li>(e) reference sample provided to the National Seed Authorities.</li></ul> <p>(3) An existing variety already released in one Partner State before the establishment of the EAC Variety Catalogue shall be entered in the Catalogue where:</p> <ul style="list-style-type: none"><li>(a) information on DUS and VCU data of the first Partner State is</li></ul>

		<p>provided;</p> <p>(b) the variety has undergone one season of VCU testing and has been released in the second Member State.</p> <p>(4) Varieties already released in two Partner States before the establishment of the EAC Variety Catalogue shall be entered in the Catalogue where information on DUS and VCU data is submitted with the application and verified by the NSA.</p>
	Variety Deregistration	<p>7. The EAC Seed Coordination office shall withdraw a variety from the Catalogue where:</p> <p>(a) the information on the variety is found to be incorrect;</p> <p>(b) a variety no longer conforms to its original characteristics;</p> <p>(c) the maintainer cannot provide the original material;</p> <p>(d) the applicant requests for its withdrawal after giving notice;</p> <p>(e) a decision is made by the community on withdrawal following a petition made by a member state. and</p> <p>(e) for any other reason as determined by the community.</p>
		<b>PART III – SEED CERTIFICATION</b>
	Seed Certification	<p>8. (1) All prescribed seeds set out in the <b>First schedule</b> shall be eligible for certification.</p> <p>(2) Seeds of crop set out in the <b>first schedule</b> shall be under compulsory certification and shall be of crop varieties officially released <b>in the Partner States</b>.</p> <p><b>(3) Seeds shall be certified in the four classes as set out in the second Schedule.</b></p> <p>(5) Seed shall not be certified unless it has been produced, inspected, sampled, tested and it complies with the standards set out <b>in schedule.....</b></p>
	Registration of Seed Dealers	<p>9 (1) Only a registered person will be eligible to trade or do seed business as a seed dealer.</p> <p>(2) An application for the registration as seed dealer shall be submitted to the National Seed Authority in the respective Partner State in Form ..... set out in the First Schedule and shall be accompanied by the prescribed fee.</p> <p>(3) The Service shall approve the registration of applicants as set out in the National Law and Regulations, which will include—</p> <p>a) Seed production;</p> <p>b) Seed Processing;</p> <p>c) Seed marketing ;</p>

		<p>(2) Each National Seed Authority may register an applicant and issue a registration certificate as set out in the applicable Partner States Seed Regulations upon being satisfied that the applicant has complied with the requirements for registration.</p> <p>(3)The Certificate may be withdrawn by the NSA due to failure to comply with requirements. This will be entered in the records by the NSA.</p> <p>(4)Each National Seed Authority maintain register of seed dealers.</p>
	Field Seed Inspection	<p>10. (1) A person, who wishes to be a seed grower shall apply to the NSA in Form .... set out in the First Schedule and pay the prescribed fee</p> <p>(2) Field seed inspection shall be carried out according to the laid down procedure of the Partner State.</p> <p>(3) Seed shall not be certified unless it has been produced by registered producer, and inspected, sampled, tested by approved inspectors, and it complies with the standards set out in Schedule .....</p> <p>(4) Only seed from approved seed fields will be allowed to be processed.</p>
	Seed sampling and testing	<p>11 (1) All seed delivered to processing plants which is intended for sale shall be sampled for determination of varietal purity by , laboratory testing and post control test by an official or authorized seed inspector.</p> <p>(2) The sampling of seed lots shall be conducted in accordance with the prevailing ISTA procedures.</p> <p>(3) Each official sample shall bear a unique seed lot reference number.</p> <p>(6) Where automatic samplers have not been installed, a registered seed dealer shall arrange the packages in such a way as to enable the seed inspector to reach all packages and draw samples.</p>
	Authorization	<p>12. 1)The National Seed Authority in a Partners State may authorize some or all aspects of seed certification to authorized persons, provided that authorization shall not cover certification of basic seed and higher classes as well as new varieties in their first and second season of certification.</p> <p>2) The NSA will train and evaluate the authorized dealers</p> <p>3) The NSA in Partner States will organize a common curriculum to train the authorized inspectors in the region.</p>
		<b>PART IV – MARKING AND LABELLING</b>
	Affixing Labels	<p>13. (1) The National Seed Designated Authority shall affix appropriate labels and seals to all certified seed classes based on the international standards.</p>



		(2) A person shall not label or seal seed lots before the official seed tester or seed analyst in-charge has released test results.
		<b>PART V – IMPORTATION AND EXPORTATION OF SEEDS</b>
	Seed Importation and exportation	<p>14. (1) A person shall not import seed for sale unless-</p> <p>(a) he or she is a registered seed dealer;</p> <p>(b) the seed complies with the minimum standards set out by the Partner State, and, for crops listed and officially released by the Partner State; and</p> <p>(2) he or she has submitted a notice to import in the prescribed form, and has, with the approval of the relevant National Designated Seed Authority, been issued with a seed import permit as per National procedure.</p> <p>(3) The provisions of paragraph (1)(a) and (b) shall not apply to importation of materials intended for germplasm collections and research materials.</p> <p>(4) The notice under subparagraph .....2.... shall specify the quantity, the species and the variety of the intended import.</p> <p>(5) All imported seed for Sale shall be accompanied by a phytosanitary certificate and an internationally accepted seed testing certificate and shall meet the Partner State's quarantine requirements as set out in the relevant laws and regulations.</p> <p>(6) All seed for export shall meet the minimum standards set out in the laws and regulations of the Partner States.</p>
	<b>PART VIII – PLANT BREEDERS RIGHTS</b>	
Application for plant breeder's right	15. An Application for Plant Breeder's Rights for a new variety, can only be done by the breeder or his/her agent.	
Filing of the application	16. An application for a breeder's right shall be filed at National Authority any one of the National Authority of the Partner States. The filing may be in paper format or electronic means and shall be subjected to the payment of prescribed fee in Second Schedule.	
Contents of an application for plant	<p>17. (1) The application shall contain:</p> <p>i) A duly completed Form PVP 1 set out in the First Schedule;</p> <p>ii) variety description contained in a crop-specific technical questionnaire;</p> <p>iii) where applicable, a declaration of priority, a power of attorney, a priority document;</p> <p>iv) evidence of payment of the prescribed fees in the Second Schedule;</p>	

breeder's right	<p>v) any other document relevant to the application.</p> <p>(2) Where an application is filed in paper format, it shall be in duplicate and one copy shall be forwarded to the EAC Seed Coordination Office. Where in electronic format, it will be copied electronically to the EAC Seed Coordination Office.</p> <p>(3) Where the application is submitted by electronic means it shall contain an electronic signature</p>
Receipt and transmittal of an application to EAC Seed Coordination Office	<p>18. (1) Where an application is filed with a National Authority, the National Authority shall:</p> <ul style="list-style-type: none"> <li>i) Verify that the application fulfils the requirements in (1). Where the National Authority finds the application incomplete it shall notify the applicant to provide the necessary information within 30 (thirty) days, failure to which the application will be deemed not filed;</li> <li>ii) Record the number of documents received;</li> <li>iii) Allocate a file number and the date of receipt;</li> <li>iv) Issue an acknowledgement of receipt of the application to the applicant;</li> <li>v) within one month of receiving the application, transmit that application to the EAC Seed Office on Form PVP 2 as set out in the first schedule;</li> <li>vi) A notice of transmittal shall be issued to the applicant by the National Authority.</li> </ul> <p>(2) EAC Seed Coordination Office shall issue an acknowledgement receipt bearing the filing date of the application to the applicant and/or the National Authority through which the EAC Seed Coordination Office received the application.</p> <p>(3) The National Authority may request for any necessary information and documentation, and, if necessary, sufficient drawings or photographs for the conduct of the technical examination within such time limit as it shall specify.</p>
Examination as to formal requirements	<p>19. (1) The National Authority shall examine all duly received applications for compliance with the requirements set out in Regulation 17 including novelty and variety denomination. If the application complies with the requirements, the National Authority shall accord the filing date.</p> <p>(2) If the National Authority finds that the application does not comply with Regulation 16 of these Regulations, it shall notify the applicant accordingly inviting him/her to comply with the requirements within thirty (30) days. If the applicant does not comply within the said period, the application shall be rejected.</p>
Publication of the application	<p>20. (1) Upon completion of the formal examination, the National Authority shall notify the designated Partner State(s) and the applicant of the decision of the National Authority</p> <p>(2) Where the application is accepted, the National Authority and EAC Seed Coordination Office shall publish such application in the respective official gazette.</p>
Objections to Applications	<p>21. (1) In pursuance of Section 30 of the Law, objection shall be lodged by any person who wishes to do so as follows:</p>

	<p>a) Within the period of three (3) months after the publication of application for a breeder's right;</p> <p>b) At any time prior to the refusal or the grant of rights in respect of the conditions for the granting of breeder's right as prescribed in Section 20, 21, 22, 23 and 24 of the Law; and</p> <p>c) Within the period of three (3) months from the date of publication of the proposed variety denomination in respect of Section 41 of the Law.</p> <p>(2) All objections shall be filed at the National Authority copied to the EAC Seed Coordination Office, shall be made in writing in the prescribed Form, accompanied by the prescribed fee in the Second Schedule and a statement of the grounds upon which the objector relies including any evidence in support of the objector's objection. Where an objection is filed through a National Authority, the objection shall be transmitted to the EAC Seed Coordination Office within thirty (30) days.</p> <p>(3) The National Authority shall serve a copy of the opposition on the applicant for registration and, within thirty (30) days of service upon the applicant of such copy of the opposition, the applicant shall send to the National Authority in the prescribed manner, a counter statement of the grounds on which he or she relies for the application together with any evidence in support of the application and if he or she does not do so, the objection shall proceed without the applicant.</p> <p>(4) The National Authority shall, after hearing the parties, if so required, and after considering the grounds and evidence upon which the application has been opposed and after giving reasons for his decision uphold or reject the opposition or permit registration subject to the provisions of the Law.</p> <p>(5) The National Authority shall prescribe the manner in which oppositions and counterstatements are to be filed and the manner in which any evidence upon which the opponent and the applicant may rely on, is to be submitted.</p> <p>(6) Where a person objecting to the application neither resides nor carries on business in any Partner State, the National Authority may require him or her to give security for the cost of proceedings before the National Authority and in default of such security being given, may treat the opposition as abandoned.</p>
Consideration and Disposition of application	<p>22. (1) The effective date of an application shall be the date that application was received by the National Seed Authority.</p> <p>(2) For purposes of this Regulation, an application shall be deemed received on the date that all parts of the application are received in the form that is sufficient for consideration by the National Seed Authority.</p>
Examination for Grant of Breeder's Rights	<p>23. (1) Examination for Distinctness, Uniformity and Stability (DUS) shall commence Three months after the date of publication of the application by the National Authority and the EAC in the official gazette. The National Authority shall arrange for technical examination for DUS, provided there is no objection to the application and subject to payment of prescribed fee in Second Schedule.</p>

2) Designation of Examination Office

a) The Council may entrust any competent institution of a Partner State or any member of an inter-governmental organization providing an effective system of plant variety protection to carry out technical examination for grant of breeder's right, on advice from the National Seed Authorities.

b) When the Council so entrusts such competent institution the EAC Seed Coordination Office shall notify the designation of such Office, hereinafter referred to as 'an Examination Office'.

c) A notification given under paragraph (b) shall take effect on the day of issue of the notification and this provision shall apply *mutatis mutandis* to the cancellation of the designation of an Examination Office.

d) A member of the staff of an Examination Office taking part in a technical examination shall not be allowed to make any unauthorized use of, or disclose to any unauthorized person, any facts, documents and information coming to his or her knowledge in the course of, or in connection with the technical examination. Such staff shall continue to be bound by this obligation after the termination of the technical examination concerned, after leaving the service and after the cancellation of the designation of an Examination Office concerned.

e) Paragraph (d) shall apply *mutatis mutandis* to material of the plant variety which has been made available to an Examination Office by the applicant.

(3) The EAC Seed Coordination Office jointly with the National Authority shall monitor compliance with paragraphs (2) (d) and (e) above and shall decide on any matter that may be raised by the applicant during the examination process.

(4) Procedure for designation of an Examination Office

a) The designation of an Examination Office shall be effected by a written agreement between the EAC Seed Coordination Office and an Examination Office.

b) The effect of the written agreement under paragraph (a) shall be such that acts performed or to be performed by members of the staff of an Examination Office in accordance therewith shall be considered, as far as third parties are concerned, to be acts of the EAC Seed Coordination Office.

c) Where an Examination Office intends to avail itself of the services of other technically qualified bodies, such bodies shall be named in the written agreement with the EAC Seed Coordination Office and the staff members of the bodies shall sign a written undertaking to observe confidentiality as required in sub-Regulation (2) (d) .

d) The National Authority on behalf of EAC Seed Coordination Office shall pay an Examination Office a fee as set out in the Second Schedule for conducting technical examination.

e) The EAC Seed Coordination Office shall develop audit guidelines to form the basis for periodically auditing the competencies of Examination Offices to enhance customer satisfaction and conformity to the provisions of the Law and these Regulations.

f) Where upon review of the competence of the Examination Office the EAC Seed Coordination Office is not satisfied with the results of the review, the EAC Seed Coordination Office may revoke the written agreement with the Examination Office.

g) Any cancellation of designation of an Examination Office may not take effect prior to the day on which revocation of the written agreement referred to in paragraph (a) of this sub-Regulation takes effect.

	h) The EAC Seed Coordination Office may recommend to the Council the cancellation of the designation of the Examination Office as a Competent Institution.
Technical Questionnaire and Test Guidelines	<p>24. (1) The EAC Council shall develop and publish a Technical Questionnaire and Test Guidelines for each species for conducting technical examination. The Technical Questionnaire shall require applicants to provide among other information, on the source of genetic material used.</p> <p>2) For purposes of Paragraph (1), the list of the Technical Questionnaire and Test Guidelines for the species concerned shall be published in the EAC Journal.</p> <p>3) In instances where the EAC Seed Coordination Office of EAC has not developed and published a Technical Questionnaire and Test Guidelines, an existing Technical Questionnaire and Test Guidelines of other Competent Institutions and Inter-Governmental Organizations may be used.</p>
Information and materials for technical examination	25. The National Authority shall make available the relevant material and information to the Examination Office for conducting technical examination
Examination reports	<p>26. (1) Reports of examination commissioned by EAC</p> <p>a) An Examination Report shall be established by the Examination Office and signed by the responsible member of the staff of an Examination Office and shall contain conclusions of the technical examination, in the form of Distinctness, Uniformity and Stability of a variety.</p> <p>b) The provisions of paragraph (a) shall apply mutatis mutandis to any progress reports to be submitted to the EAC Seed Office.</p> <p>c) The National Authority may provide the applicant with summary reports of progress of the technical examination;</p> <p>d) The National Authority shall provide conclusions of the technical examination to the applicant.</p> <p>2) Other Examination Reports</p> <p>a) An examination report on the results of any technical examination which has been carried out or is in the process of being carried out for official purposes in Partner States and any member of an inter-governmental organization providing an effective system of plant variety protection may be considered by the National Authority to constitute a sufficient basis for decision, provided that the material submitted for the technical examination has complied, in quantity and quality, with any standards that may have been laid down in the specific Test Guidelines, pursuant to Sections 31 and 32 of the Law.</p> <p>b) Where the final report is not immediately available, interim reports on each growing period may be submitted to the National Authority to monitor progress.</p> <p>c) Where the National Authority does not consider an Examination Report referred to in paragraph (a) to constitute a sufficient basis for a decision, it may follow the procedure laid down in Section 32(1)(a) of the Law, after consulting the applicant and an Examination Office concerned.</p> <p>d) The National Authority, EAC Seed Coordination Office, each National Authority in the Partner States and any member of an inter-governmental organization providing an effective</p>

	<p>system of plant variety protection shall give administrative assistance to each other by making available, upon request, any examination reports on a variety, for the purpose of assessing DUS.</p>
Variety denomination	<p>27. (1) Proposal for a variety denomination</p> <p>a) The proposal for a variety denomination shall be signed and filed at the National Authority, or, if the proposal accompanies the application for a breeder's right, it shall be filed in duplicate.</p> <p>b) Where the proposal for a variety denomination is submitted by electronic means it shall contain an electronic signature.</p> <p>2) Examination of the proposed variety denomination</p> <p>a) Where the variety denomination proposal does not accompany the application for a breeder's right, the National Authority will notify the applicant on the need to provide it, before the variety can get a grant of breeder's right.</p> <p>b) Where a proposed variety denomination cannot be approved by the National Authority, the National Authority shall within seven (7) days communicate this to the applicant, and shall require him or her to submit a new proposal within a period of thirty (30) days and shall indicate the consequences of failure to do so.</p> <p>c) Where the National Authority establishes at the time of receipt of the results of the technical examination that the applicant has not submitted any proposal for a variety denomination, it shall refuse to grant breeder's right, until an acceptable variety denomination has been provided.</p> <p>3) Amendments of the variety denominations</p> <p>a) Where the variety denomination has to be amended, the National Authority shall communicate the grounds thereof to the holder, shall set up a time limit within which the holder must submit a suitable proposal for an amended variety denomination, and shall state that, should he or she fail to do so, the breeder's right may be cancelled pursuant to Section 43 of the Law.</p> <p>b) Where the proposal for an amended variety denomination cannot be approved by the National Authority, the National Authority shall without delay inform the holder, within thirty (30) days within which the holder must submit a suitable proposal, and shall state that, should he or she fail to comply, the breeder's right may be cancelled pursuant to Section 43 of the Law.</p> <p>c) Where the proposal for an amendment of a variety denomination is submitted by electronic means it shall contain an electronic signature</p> <p>d) Any objections to a proposed variety denomination should be lodged within three (3) months of the publication of the proposal.</p>
Cooperation between Unit National Authority and Examination Offices	<p>28. The Examination Office and the National Authority shall designate staff to cooperate in all phases of examination covering the following aspects:</p> <p>a) the monitoring of the conduct of the technical examination, including the inspection of the locations of the test plots and the methods used for the tests;</p> <p>b) without prejudice to other investigations by the National Authority, information from an Examination Office about details of any previous disposal of the variety for the purpose of determining novelty; and</p>

	<p>c) the submission by an Examination Office to the National Authority of interim reports on each growing period.</p>
Grant and rejection of a breeder's right	<p>29 (1) Grant of Certificate for Breeder's Right</p> <p>a) Notification of intention to grant a breeder's right</p> <p>i) Prior to grant of certificate of Breeder's Right and upon compliance with the requirements for grant, the National Authority shall notify without delay EAC Seed Coordination Office and all Partner States of the intention to grant a breeder's right on Form PVP 2 together with all relevant documents including DUS examination report;</p> <p>ii) The Partner States shall within six (6) months notify the EAC Seed Coordination Office in Form PVP 3 whether or not the breeder's right shall have effect in its territory;</p> <p>iii) Where a Partner State notifies the EAC Seed Coordination Office that the breeder's right shall not have effect in its territory, the notification shall specify grounds for the decision;</p> <p>iv) After expiration of the six (6) months, the National Authority shall grant the breeder's right, which shall have effect in those States that had not made communication referred to in sub-Regulation (ii) above.</p> <p>b) Where the National Authority grants breeder's right it shall</p> <p>i) notify the applicant of the decision and request for the payment of the grant fee within thirty (30) days;</p> <p>ii) issue a certificate of breeder's right on Form PVP 4 of the First Schedule as evidence of the grant;</p> <p>iii) publish the particulars of the grant in the <b>EAC Journal</b>; and</p> <p>iv) enter the particulars of the grant in the register.</p> <p>c) On request, the National Authority may issue a certified copy upon payment of a prescribed fee in the Second Schedule to the applicant if it establishes that the original certificate has been lost or destroyed.</p> <p>(2) Rejection of Grant of Breeder's Right</p> <p>Where an application is rejected in accordance with Section 20(4) of the Law, the National Authority shall</p> <p>a) notify the applicant of the decision within thirty (30) days of the decision;</p> <p>b) publish the decision in the <b>EAC Journal</b>, and;</p> <p>c) Enter the decision in the EAC PVP Register.</p>
Register of Breeder's Rights	<p>30. (1) Entries in the register related to proceedings and to breeder's rights</p> <p>a) The following shall be entered in the Register:</p> <p>i) a description, or a description and photograph, of the plant variety and the denomination of the variety;</p> <p>ii) the name and other particulars of the variety;</p> <p>iii) the name of the holder</p> <p>iv) the name and address of the breeder or holder of the breeder's right;</p> <p>v) the name and address of the person to whom any breeder's right has been transferred;</p>

	<p>vi) the address for the service of documents of the applicant or the holder of the breeder's right, which is shown on the application for the rights;</p> <p>vii) the date on which the breeder's right is granted and the date of expiry;</p> <p>viii) the date of publication where such publication is a relevant event for the computation of time limits;</p> <p>ix) any objection, together with its date, the name and address of the objector and those of his or her procedural representative;</p> <p>x) priority date (date and State of the earlier application)</p> <p>xi) any institution of actions in respect of claims as to entitlement to the breeder's right, and the final decision in, or of any other termination of, any such action;</p> <p>xii) any assignment or transfers of the breeder's right;</p> <p>xiii) any decision of nullity or cancellation and surrender of the breeder's right; and</p> <p>xiv) details concerning any compulsory licenses issued in a Partner State and details thereof</p> <p>b) The following shall be entered in the Register, upon request:</p> <p>i) the giving of a breeder's right as a security or as the object of any other rights in rem;</p> <p>ii) any institution of actions in respect of claims relating to the breeder's right, and the final decision in, or of any other termination of, any such action; or</p> <p>iii) any contractual license agreement in force and records of any related proceedings.</p> <p>c) The EAC Seed Coordination Office shall decide upon the details of the entries to be made and may decide upon further particulars to be entered in the Register which may be maintained in the form of an electronic database.</p> <p>(2) Inspection of the Register</p> <p>a) The EAC Register of Breeders' Rights shall be open for public inspection.</p> <p>b) Copies of extracts from the Register shall be provided upon payment of a prescribed fee as provided in the Second Schedule.</p> <p>c) The EAC Seed Coordination Office may provide for public inspection of the Register through the National Authority.</p>
Entry of assignment and transfer of breeder's right in the register	<p>31 (1) An assignment or transfer of a breeder's right shall be entered in the Register upon notification in Form PVP ---- in the First Schedule.</p> <p>(2) The notification to register an assignment or transfer shall be accompanied by documentary evidence of such transfer or assignment and shall be accompanied by a prescribed fee in the Second Schedule</p>
Exceptions to breeder's right	<p>32. (1) The Breeder's right shall not extend to acts as provided under Section 36(1) of the Law.</p> <p>2) In the case of the provision under Section 36 (2) of the Law, the Council shall specify from time to time a list of agricultural crops and vegetables with historical practice of saving, using, sowing, re-sowing or exchanging seeds and acreage/tonnage that defines a small-scale farmer in each Partner State based on the criteria established at the national level. The list shall be periodically published by the EAC Seed Unit.</p>



	<p>3) For the purposes of implementing Section 36 (2) of the Law in these Regulations, an 'own holding' shall be considered to be any holding or part thereof which the farmer actually exploits for growing plants, whether as his or her property or otherwise managed under his or her own responsibility and on his or her own account, in particular in the case of lease holds.</p> <p>4) For the purposes of determining the level of remuneration under Section 36 (3) of the Law, it is hereby provided that:</p> <p>a) Small scale commercial farmers and large scale commercial farmers referred to in Section 36 (3) of the Law who exceed the acreage/tonnage that defines a small scale farmer provided under paragraph (2) are subject to pay remuneration to the breeder;</p> <p>b) The level of the equitable remuneration to be paid may form the object of a contract or license between the holder and the small scale commercial farmer and large scale commercial farmer concerned;</p> <p>c) In the absence of a contract or license, designated States may determine the level of remuneration which shall be reasonably lower than the amount charged for the licensed production of propagating material of the lowest category qualified for official certification, of the same variety in the same area;</p> <p>5) For the purpose of implementing Section 36 (3) of the Law in these Regulations, where a breeder has prior evidence that a commercial farmer has used or is using farm saved seeds of the breeder's protected variety for propagating purposes, the breeder may request the following information:</p> <p>a) The particulars of the farmer including name, address and location of farmer's own holding;</p> <p>b) The details of the protected variety;</p> <p>c) Quantity of seed saved.</p>
Proceedings before the National Authority	<p>33. (1) Parties to Proceedings</p> <p>a) The following persons may be party to proceedings before the National Authority —</p> <p>i) the applicant for a breeder's right;</p> <p>ii) the holder(s) of the breeder's right;</p> <p>iii) any person whose application or request is a prerequisite for a decision to be taken by the National Authority</p> <p>b) The National Authority may allow participation in the proceedings by any person other than those referred to in paragraph (a) of this sub-Regulation who is directly and individually concerned, upon written request.</p> <p>c) Any natural or legal person as well as anybody qualifying as a legal person under the law applicable to that body shall be considered a person within the meaning of paragraphs (a) and (b) of this sub-Regulation.</p> <p>d) Where a Partner State is party to proceedings, it shall designate a representative for each proceeding in which it takes part.</p> <p>(2) Languages of parties to proceedings</p> <p>a) Proceedings and documentation at the National Authority shall be in English</p> <p>b) If a party to proceedings files a document in a language other than English National Authority shall require a translation of the documents received to be made by the party to the proceedings into English.</p>

	<p>c) Where a translation of a document is to be filed or is filed by a party to proceedings, the National Authority may require the filing, within such time as it may specify, of a certificate, issued by a recognized institution that the translation corresponds to the original text.</p> <p>d) Failure to file the translation referred to in paragraph (a) and the certificate referred to in paragraph (b), shall lead to the document being deemed not to have been received.</p> <p>(3) Services and Notifications</p> <p>a) Service and notifications shall be made by:</p> <ul style="list-style-type: none"> <li>i) registered mail;</li> <li>ii) delivery by hand;</li> <li>iii) public notice; or</li> <li>iv) electronic means or any other appropriate means.</li> </ul> <p>b) The National Authority shall determine the details concerning service by electronic means.</p> <p>c) Documents or copies thereof containing actions shall be served by registered letter with advice of delivery served by postal means and may also be served by electronic means if so required by National Authority.</p> <p>d) If the National Authority is unable to prove that a document which has reached the addressee has been duly served, or if provisions relating to its service have not been observed, the document shall be deemed to have been served on the date established by the National Authority as the date of receipt.</p>
Time limits and interruption of proceedings	<p>34 (1) Computation of time limits</p> <p>Time limits shall run from the day following the day on which the relevant event occurred.</p> <p>(2) Extension of time limits</p> <p>a) If a time limit expires on a day on which the National Authority is not open for business, the time limit shall extend until the first day thereafter on which the National Authority is open for business.</p> <p>b) As regards documents submitted by electronic means, paragraph (a) shall apply mutatis mutandis in cases where there is an interruption of the connection of the National Authority to the electronic means of communication.</p> <p>c) Paragraphs (a) and (b) shall apply mutatis mutandis to the Examination Offices as well as to all National Authorities and the EAC Seed Coordination Office</p>
Agents or Representatives	<p>35, (1) An applicant who is not a resident in any of the Partner States shall designate an agent or representative in any of the Partner States to act on their behalf before the National Authority and such designation shall be in Form PVP 5.</p> <p>(2) An agent or representative whose mandate has ended shall continue to be considered as an agent or representative until the termination of his or her mandate has been communicated to the National Authority</p> <p>(3) If there are two or more parties to proceedings acting in common, which have not designated an agent or representative to the Office, the party to the proceedings first named in an application for breeder's right or for an exploitation right to be granted by the National Authority or in an objection shall be deemed to be designated as the agent or representative of the other party or parties to the proceedings</p>

Appeals	<p>36. (1) Any person aggrieved by the decisions of the National Authority may appeal through the procedures provided by the Laws of the Partner State where the decision has been made,</p> <p>(2) Decisions</p> <p>a) Decisions of the National Authority which are open to appeal shall be accompanied by a statement to that effect, together with the time limits provided for lodging such appeal. The parties to proceedings may not plead the omission of that statement.</p> <p>b) A decision of the National Authority that is subject to appeal shall be in accordance with the procedure provided by the Appeal system by the Laws of the Partner States.</p> <p>3) Taking of evidence by National Authority</p> <p>a) Where the National Authority considers it necessary to hear the oral evidence of parties to proceedings or of witnesses or experts, or to carry out an inspection, it shall take a decision to that effect, stating the means by which it intends to obtain evidence, the relevant facts to be proved and the date, time and place of hearing or inspection.</p> <p>b) Where oral evidence from witnesses and experts is requested by a party to proceedings, the decision of the National Authority shall state the period of time within which the party to proceedings filing the request must make known to the National Authority the names and addresses of the witnesses and experts whom the party to proceedings wishes to be heard.</p> <p>c) At least thirty (30) days' notice of a summons dispatched to a party to proceedings, witness or expert to give evidence shall be given unless the National Authority and the party to the proceedings agree to a shorter period.</p> <p>d) Before a party to proceedings, a witness or an expert may be heard, the National Authority may request the competent judicial or other authority in his or her country of domicile to re-examine his or her evidence on oath or in some other binding form.</p> <p>(4) Commissioning of experts</p> <p>a) The National Authority may appoint an expert to appear before the proceedings.</p> <p>b) The National Authority shall decide in what form the report to be made by an expert whom it appoints shall be submitted.</p> <p>(5) Costs of taking evidence</p> <p>The taking of evidence may be made conditional upon deposit with the National Authority, by the party to proceedings who requested that such evidence be taken, of a sum to be quantified by the National Authority by reference to an estimate of the costs.</p>
Apportionment and determination of costs	<p>37. (1) Awards of costs</p> <p>a) A decision as to costs shall be dealt with in the decision on the nullity or cancellation of a breeder's right, or the decision on the appeal.</p> <p>b) In the case of an award of costs, the National Authority shall set out that award in the statement of the grounds of the decision on the nullity or cancellation of a Breeder's right, or the decision on the appeal</p>
Administrative and	38 (1) Communication of information

legal cooperation	<p>a) Information relating to publications and any other useful information relating to applications and granted breeder's rights shall be communicated directly between the EAC Seed Coordination Office and the National Authorities.</p> <p>b) The communication of information between the EAC Seed Coordination Office, Examination Offices, and the courts or National Authorities may be effected through the National Authority of the Partner States, without costs.</p> <p>(2) Inspection of files and documents in the Partner States</p> <p>a) The inspection of files related to applications and granted breeder's rights shall be of copies of the files issued by the National Authority or EAC Seed Coordination Office exclusively for that purpose.</p> <p>b) Courts of the Partner States may, in the course of proceedings before them, lay the documents transmitted by the National Authority or EAC Seed Coordination Office open to inspection by third parties. Such inspection shall be free of charge.</p> <p>c) The National Authority and EAC Seed Coordination Office shall, at the time of transmission of the files to the courts of the Partner States, indicate the restrictions to which the inspection of documents relating to applications for, or to grants of breeder's rights are subject to.</p>
Compulsory licenses	<p>39.(1) Where a National Authority of a Partner State grants a compulsory license of a breeder's right for reasons of public interest in accordance with Section 38 of the Law, the following guidelines may be considered:</p> <p>a) the decision to grant a compulsory license should be in writing and contain a statement setting out the public interest involved;</p> <p>b) authorization of such use should be considered on its individual merits;</p> <p>c) such license may be issued if, prior to such license, the applicant has applied unsuccessfully to obtain a contractual license from the holder of the plant breeder's right within a reasonable period of time to be determined by the Partner State;</p> <p>d) the right holder should be paid equitable remuneration depending on the circumstances of each case;</p> <p>e) the scope and duration of the compulsory license should be limited to the reasons of public interest for which it was authorized;</p> <p>f) the compulsory license should be non-assignable and non-exclusive;</p> <p>g) the legal validity of any decision relating to the authorization of such use should be subject to appellate review in that Partner State.</p> <p>(2) The Partner State should notify the EAC Seed Coordination Office of the issuance and the details of the compulsory license.</p>
Fees	<p>40. (1) The fees for the implementation of the Law and the amounts of such fees are set out in the Second Schedule of these Regulations.</p> <p>2) Subject to paragraph (4), fees shall be paid in United States Dollars directly to the National Authority of the Partner State granting the breeder's rights</p> <p>3) In relation to the application fees, the payment shall be made directly to the National Authority or the application shall be accompanied by an undertaking signed by the applicant that he or she will effect payment to the National Authority within a period of 21 days from the date on which the application is filed.</p> <p>4) (a) Notwithstanding paragraph (2), where the applicant is a national of the Partner State in which the application is filed, the National Authority concerned may accept payment of</p>

	<p>the fees in local currency equivalent, at the prevailing official rate of exchange, to the prescribed fees; and</p> <p>(b) The EAC Seed Office shall be bound by the decision taken by the National Authority of a Partner State concerning the applicability of this paragraph with regard to the nationality of the applicant.</p>
Administrative instructions	41. The shall establish Administrative Instructions which will deal with details in respect of the application of these Regulations and which shall not be in conflict with the provisions of the Law and these Regulations.
	<b>PART X – QUARANTINE AND PHYTOSANITARY REQUIREMENTS FOR SEED</b>
Plant Import Permit	<p>42. (1) The designated National Plant Protection Organization of an importing Partner State shall issue a Plant Import Permit to a seed importer authorizing the importation of seeds in accordance with the existing laws and regulations of the Partner State.</p> <p>(2) The Plant Import Permit shall accompany the seed lot and be presented to the inspectors at exit and entry points.</p>
Phytosanitary Certificate	<p>43. (1) The designated National Plant Protection Organization of a Partner State shall issue Phytosanitary Certificate to certify that the requirements specified on the Plant Import Permit have been satisfied.</p> <p>(2) The Phytosanitary certificate shall be presented to the inspectors at exit and entry points.</p>
Notification of non-compliance	<p>44. (1) The designated National Plant Protection Organization of an importing Partner State shall issue a notification of non-compliance to the designated National Plant Protection Organization of an exporting Partner State where-</p> <p>(a) consignments of seeds or the accompanying Phytosanitary certificates do not comply with the conditions set out in the Plant Import Permit; or</p> <p>(b) a quarantine pest has been intercepted.</p>
Re-export Phytosanitary Certificate	<p>45. (1) The designated National Plant Protection Organization of a Partner State, where seeds are in transit, shall issue a Re-export Phytosanitary Certificate where:</p> <p>(a) a consignment of seeds, arriving from an exporting Partner State is being stored or repacked under circumstances which may expose the consignment to infestation or infection before re-export to a third Partner State; or</p> <p>(b) the consignment has stayed in the transit Member State longer than determined by the Organization.</p> <p>(2) The Re-export Phytosanitary Certificate issued under sub-regulation (1) shall be attached to the Phytosanitary Certificate issued by the exporting Partner State.</p>
Seed Testing Certificate	46. (1) The National Seed Authority of the exporting Partner State shall issue the Seed Testing Certificate in accordance with the existing laws and regulations.

	(2) The seed testing certificate shall accompany a seed lot and be presented to inspectors at exit and entry points.
Quarantine Pest List	47. The Partner States shall adopt the EAC Quarantine Pest List for seeds set out in <b>Schedule.....</b>
	<b>PART IX – GENERAL PROVISIONS</b>
Review	48. These Regulations may be reviewed from time to time.