



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

GUIDELINES AND PROCEDURES FOR IMPORTATION AND SELLING OF PROPAGATING MATERIAL OF UNLISTED VARIETIES TO ESTABLISH PLANTS/TREES/VINES FOR EVALUATION PURPOSES IN TERMS OF THE PLANT IMPROVEMENT ACT, 1976 (ACT NO. 53 OF 1976).

VEGETATIVELY PROPAGATED FRUIT CROPS

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1. DEFINITIONS:

Unless otherwise indicated,

“Any other Act or Agreement” includes, but is not limited to the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997) and the Plant Breeders’ Rights Act, 1976 (Act no 15 of 1976)

“Department” means the Department of Agriculture, Forestry and Fisheries

“Person” means any natural or juristic person

“Phytosanitary requirements” refer to the requirements of the Agricultural Pests Act, 1983 (Act No. 36 of 1983); and

“Registrar” means the Registrar of the Plant Improvement Act, 1976 (Act No 53 of 1976)

“Sell” includes agree to sell, or to offer, advertise, prepare, keep, expose, transmit, send, convey or deliver for sale, or to exchange or to dispose of in any manner for a consideration; and 'sold' and 'sale' have corresponding meanings.

2. PURPOSE OF THIS DOCUMENT:

- 2.1 The aim of this document is to provide guidelines and procedures within the existing legal framework for the importation and selling of propagating material of unlisted varieties of vegetatively propagated crops to establish plants/trees/vines for breeding/research or evaluation purposes.
- 2.2 The procedures in this document are only applicable on the kinds of plant listed in **Annexure 1**.
- 2.3 The Plant Improvement Act stipulates in Section 26 that propagating material may only be imported if the denomination of the variety has been included in the national varietal list. Provision has however been made in Sec. 26(2) that the Registrar may allow the importation of propagating material of varieties that are not yet listed, upon application in the prescribed manner.
- 2.4 The Plant Improvement Act also stipulates in Section 13 that propagating material may only be sold if the denomination of the variety has been included in the national varietal list. Provision has however been made in Sec. 13(2) that the Registrar may allow sales of propagating material of varieties that are not yet listed, upon application in the prescribed manner.
- 2.5 The **purpose of the authorisation** is to provide any person the opportunity to obtain propagating material for **breeding/research or evaluation purposes** to be able to select or breed the most suitable varieties for local production and eventual incorporation into the Official Varietal List.
- 2.6 In the case of **imported varieties**, authorisation to sell an amount of plants/trees/vines for establishment up to the amount indicated in Annexure 1 is granted with the authorisation to import unlisted varieties according to the procedure stipulated in paragraph 3.
- 2.7 In the case of **locally developed varieties**, authorisation to sell plants/trees/vines for establishment up to the amount indicated in Annexure 1 must be submitted according to the procedure in paragraph 4.
- 2.8 If there is need to exceed the amount of plants/trees/vines indicated in Annexure 1, irrespective the origin of the variety, the procedure indicated in paragraph 5 has to be followed.

3. PROCEDURE TO APPLY FOR AUTHORISATION TO IMPORT UNLISTED VARIETIES FOR BREEDING/RESEARCH OR EVALUATION PURPOSES:

- 3.1 All propagating material imported in terms of this authorisation must comply with all the necessary phytosanitary conditions as stipulated in the import permit issued in terms of the Agricultural Pests Act, 1983.
- 3.2 Any person may apply for authorisation, but the following must be adhered to:
 - 3.2.1 Application for the importation of propagating material must be submitted on the form in Annexure 3 **prior** to the intended import.
 - 3.2.2 The amount of propagating material to be imported is subject to the directive of the import permit.
 - 3.2.3 When propagating material is imported for the purpose of breeding/research, the variety names may be indicated as “various varieties/lines” per kind of plant. It is important to note that this material **may not be sold** and may only be used for breeding and/or research.
 - 3.2.4 It is illegal in terms of the Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976), for any person, except the holder of a plant breeder's right or his/her agent, to import or sell any propagating material of a variety to which a plant breeder's right has been granted, including applications filed for plant breeders' rights. Before any authorisation for such importation will be allowed, written permission from the holder of the plant breeder's right or his/her local agent must be provided to the Registrar.
 - 3.2.5 Selling and/or distribution of propagating material for establishment of plants/trees/vines derived from propagating material that has been imported in terms of this concession may only be done after it has been released by plant quarantine and may only be done by a person who has registered premises in terms of the Plant Improvement Act, 1976 (Act No. 53 of 1976).
 - 3.2.6 This authorisation allows for establishment of an amount of plants/trees/vines up to the maximum amount indicated for the relevant kind of plant in Annexure 1, provided that comprehensive record is kept by the owner/agent of the names and addresses as well as of

the quantities that were supplied to each person, and must be available to the Registrar upon request.

- 3.2.7 A period of 10 years is allowed for evaluation of a variety from the date of first issue of material from plant quarantine to evaluate the varieties, thereafter an application for varietal listing has to be submitted or evaluation terminated. When evaluation is terminated on a variety, plants/trees/vines of that variety may not be further propagated and the variety denomination used for the particular plants/trees/vines may not be used **any more**. The relevant owner/agent for that variety must notify all co-operators.
- 3.2.8 Each client must be made aware of the fact that the propagating material is only for evaluation and must be indicated as such by a red label on all sales documents and delivery notes:

EXPERIMENTAL VARIETY/CULTIVAR (Arial 11 bold)

UNAUTHORIZED PROPAGATION / SALES / DISSEMINATION OF PROPAGATING MATERIAL IS PROHIBITED (Arial 9 bold)

- 3.3 Each application for the importation of unlisted varieties (maximum 10 varieties per application), must be accompanied by proof of payment of the prescribed fee (valid for the period 1 April – 31 March). Payment can be made at the Department's cashier or paid directly into the following bank account:

Bank: Standard Bank (cheque account);
Branch: Arcadia; Branch code: 010-845;
Account number: 011 276 487
Account name: DAFF PIA Registrations;
Reference: company name.

No authorisation will be issued if the correct fee has not been paid. In case of any doubt, please contact the Registrar's office.

- 3.4 **Annexure 2** contains the contact persons of the relevant legislation responsible for the issuing of permits. The importer has to ensure that all relevant permits and authorisations have been obtained prior to the importation of the consignment.

4. PROCEDURE TO APPLY FOR AUTHORISATION TO SELL AND ESTABLISH LOCALLY DEVELOPED UNLISTED VARIETIES FOR EVALUATION PURPOSES

- 4.1 Any person may apply for authorisation, but the following must be adhered to:
- 4.1.1 Application for the selling of plants/trees/vines for establishment must be submitted on the form in Annexure 4 **prior** to the intended sales and distribution of the material.
- 4.1.2 In terms of the Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976), it is illegal for any person, except the holder of a plant breeder's right or his/her agent, to sell any propagating material of a variety to which a plant breeder's right has been granted, including applications filed for plant breeders' rights. Before any authorisation for such sales will be allowed, written permission from the holder of the plant breeder's right or his/her local agent must be provided to the Registrar.
- 4.1.3 Selling and/or distribution of propagating material for establishment of plants/trees/vines in terms of this authorisation may only be done by a person who has registered premises in terms of the Plant Improvement Act, 1976 (Act No. 53 of 1976).
- 4.1.4 This authorisation allows for establishment of an amount of plants/trees/vines up to the maximum amount indicated for the relevant kind of plant in Annexure 1, provided that comprehensive record is kept by the owner/agent of the names and addresses as well as of the quantities that were supplied to each person, and must be available to the Registrar upon request.
- 4.1.5 A period of 7 years is allowed for evaluation of a variety from the date of first distribution of material (authorisation for establishment), thereafter an application for varietal listing has to be submitted or evaluation terminated. When evaluation is terminated on a variety,

plants/trees/vines of that variety may not be further propagated and the variety denomination used for the particular plants/trees/vines may not be used **any more**. The relevant owner/agent for that variety must notify all co-operators.

- 4.1.6 Each client must be made aware of the fact that the propagating material is only for evaluation and must be indicated as such by a red label on all sales documents and delivery notes:

EXPERIMENTAL VARIETY/CULTIVAR (Arial 11 bold)

UNAUTHORIZED PROPAGATION / SALES / DISSEMINATION OF PROPAGATING MATERIAL IS PROHIBITED (Arial 9 bold)

- 4.2 Currently there is no cost for such an authorisation, but it will be implemented after Treasury approval has been obtained. In case of any doubts, the office of the Registrar should be contacted.

5. PROCEDURE TO APPLY FOR AUTHORISATION TO EXCEED THE INITIAL AMOUNT OF PLANTS/TREES/VINES TO BE SOLD FOR ESTABLISHMENT FOR EVALUATION PURPOSES

- 5.1 If there is need to exceed the amount of plants/trees/vines indicated in Annexure 1, irrespective the origin of the variety, an application containing the following information must be submitted in writing to the Registrar **prior to any sales and/or distribution** of the material:

- 5.1.1 motivation stating the reasons for the request;
- 5.1.2 risk analysis determining which variety in RSA is most similar according to the variety description, based on fruit produced in RSA;
- 5.1.3 written consent from the owner/agent of the similar variety in case of a valid plant breeders' right, regarding the amount of plants/trees/vines to be established;
- 5.1.4 names and addresses of producers where the plants/trees/vines are intended to be established (producer name, farm, nearest town) on the form in Annexure 5; and
- 5.1.5 a complete application for varietal listing.

The request will only be considered if authorisation had already been obtained for the maximum amount of plants/trees/vines as indicated in Annexure 1.

6. GENERAL

- 6.1 The owner/agent for the variety must keep record of the names and addresses of producers as well as of the quantities sold. A copy of the authorisation should be kept at the nursery that propagated the plants/trees/vines.
- 6.2 No authorisation will be issued for unlisted varieties that were sold without the required authorisation. Dispensation will not be recommended for the export of fruit harvested from such plants/trees/vines.
- 6.3 Unlisted varieties may not be advertised without stating that they are under evaluation. Selling of plants/trees/vines of these varieties to contracted producers must be strictly based on contracts that clearly state the consequences when the specific varieties are rejected for listing or withdrawn by the owner/agent.
- 6.4 In cases where varieties are:
 - i) rejected for varietal listing or
 - ii) the application for varietal listing has been withdrawn by the owner/agent or
 - iii) the owner/agent decides to discontinue evaluation and not to proceed with registration,no further propagation of this variety may be done. Dispensation for use of the particular variety name will only be recommended for the production season following the date of rejection or withdrawal. Further use of that variety name will not be allowed.

- 6.5 If any of the conditions set out in an authorisation is not complied with, actions may be taken against the importer/seller in terms of the Plant Improvement Act.

A handwritten signature in black ink, appearing to read 'Sadi', is centered on a light pink rectangular background.

REGISTRAR: PLANT IMPROVEMENT ACT

DATE: 26 March 2012

KINDS OF PLANT WHICH REQUIRE AUTHORISATION FOR UNLISTED VARIETIES

Botanical name Botaniese naam	Common name Gewone naam	Amount Aantal
<i>Cydonia spp</i>	Quince rootstock/ Kweper onderstam.....	10 000 trees
<i>Fragaria xananassa</i> Duch.	Strawberry / Aarbei	25 000 plants
<i>Malus</i> L.	Apple fruit / Appel vrug	10 000 trees
<i>Malus</i> L.	Rootstocks / Onderstamme	10 000 trees
<i>Prunus armeniaca</i> L.	Apricot/ Appelkoos	10 000 trees
<i>Prunus avium</i> (L.) L.	Sweet cherry/ Soetkersie	10 000 trees
<i>Prunus cerasus</i> L.	Sour cherry/ Suurkersie	10 000 trees
<i>Prunus domestica</i> L.	European Plum, prune/ Pruim, pruimedant	10 000 trees
<i>Prunus dulcis</i> (Mill.) D. Webb	Almond/ Amandel	10 000 trees
<i>Prunus persica</i> (L.) Batsch	Peach/ Perske	10 000 trees
<i>Prunus persica</i> (L.) Batsch var. <i>nucipersica</i> Schneid.	Nectarine/ Nektarien	10 000 trees
<i>Prunus salicina</i> Lindl.	Japanese plum/ Japane pruim	10 000 trees
<i>Prunus</i> hybrids.	Interspecific hybrids / Interspesiekruisings	10 000 trees
<i>Prunus</i> spp.	Rootstocks / Onderstamme	10 000 trees
<i>Pyrus</i> L.	Pear fruit / Peer vrug	10 000 trees
<i>Pyrus</i> L.	Rootstocks / Onderstamme	10 000 trees
<i>Vitis</i> L.	Table & Wine Grape /Tafel- en Wyndruif	10 000 vines
<i>Vitis</i> L.	Rootstocks / Onderstokke	10 000 vines

Note: Varieties for ornamental / decorative purposes are exempted from these requirements.

IMPORT OF PLANTS OR PROPAGATING MATERIAL

CHECKLIST FOR CLIENTS

TO ENSURE THAT ALL RELEVANT DOCUMENTATION HAS BEEN OBTAINED BEFORE THE INTENDED IMPORTED MATERIAL ARRIVES IN SOUTH AFRICA

Each client has the responsibility to ensure that he/she is in possession of all relevant documentation and is advised to visit the respective websites of the relevant directorates to ensure that the latest forms are used and requirements are met, or alternatively to contact the relevant officials.

	Type of permit/authorisation	Permit required		Permit obtained	
		Yes	No	Yes	No
1	GMO permit				
2	Plant Breeders' Rights permission (if importer is not owner/agent)				
3	Plant Improvement Authorisation (for unlisted varieties)				
4	Import Permit Agricultural Pests Act				

The following legislation and directorates are involved when plants, plant material and/or plant propagating material is to be imported:

1. Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997): (Genetic Resources)

Ms Mpumi Mkhonza (NompumeleloM@daff.gov.za; 012-319 6382)

Ms Refilwe Ngoepe (RefilweN@daff.gov.za; 012-319 6165)

Please note the respective time-lines applicable to the type of application.

Application	No. of days
1. Importation and exportation of genetically modified organisms with general release / commodity clearance appearance	30
2. Contained use of genetically modified organisms and/or import or export permit *	120
3. Trial release of genetically modified organisms and/or import or export permit	120
4. General release of genetically modified organisms	270
5. Extension permit	90
6. Use of genetically modified organisms with commodity clearance approval	30
7. Registration of facilities	60
8. Commodity clearance of genetically modified organisms	270

2. Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976): (Directorate Genetic Resources)

Ms Marcini Govender (MarciniG@daff.gov.za; 012-319 6226) – fruit

Ms Elna de Bruyn (ElnaDB@daff.gov.za; 012-319 6096) – seed

3. Plant Improvement Act, 1976 (Act No. 53 of 1976): (Directorate Plant Production)
Guidance information: guidelines to import unlisted varieties and national varietal list
Ms Joan Sadie (JoanS@daff.gov.za; 012-319 6034)
Timeline for authorisation: 5 working days

4. Agricultural Pests Act, 1983 (Act No. 36 of 1983): (Directorate Plant Health)

Stellenbosch:

**Stone fruit (peach, plum, apricot, almond, cherry, nectarine), other *Prunus* spp.,
Pome fruit (apple, pear, quince), grapevine, olive, hops, kiwifruit, strawberry, raspberry, *Ribes*
spp (currants, etc.), *Vaccinium* (blueberry), fig, *Morus*, persimmon, walnut, Pistachia nut and
hazelnut, *Protea*, *Leucadendron*, *Leucospermum*, *Adenanthos*, *Brunia*.**

Mr Haroon Ahmed (HaroonA@daff.gov.za; 021-809 1617)

Mr Henry Allies (HenryA@daff.gov.za; 021 809 0258)

Timeline for permit: 3 days

Pretoria:

all other crops

Mr Jeremiah Manyuwa (JeremiahMA@daff.gov.za; 012-319 6102)

Ms Anita Snyman (AnitaSN@daff.gov.za; 012-319 6396)

Ms Shashika Maharaj (ShashikaM@daff.gov.za; 012-319 6383)

Mr Benni Kgomo (BenJK@daff.gov.za; 012-319 6130)

Timeline for permit: 30 days



**agriculture,
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REPUBLIC OF SOUTH AFRICA

**APPLICATION FOR AUTHORISATION TO SELL PLANTS/TREES/VINES OF UNLISTED VARIETIES
FOR ESTABLISHMENT I.T.O. SECTION 13(2) OF THE PLANT IMPROVEMENT ACT, 1976 (ACT No. 53 OF 1976)
IN QUANTITIES EXCEEDING THE MAXIMUM ALLOWED**

Application must be completed and submitted prior to any sales to:
Registrar of Plant Improvement, Private Bag X250, PRETORIA 0001 **[Fax Number: 012-319 6353/61115]**

FRUIT CROPS

Botanical and common name of the kind of plant	Variety name	Name and address of producer (name, farm name & nearest town)	Number of plants/trees/vines

APPLICANT/ORGANISATION: CONTACT PERSON:

ADDRESS:

TEL NO: FAX NO: E-MAIL:

SUPPLIER OF MATERIAL: CONTACT PERSON:

TEL NO.: FAX NO.: E-MAIL:

NURSERY FOR PROPAGATION: CONTACT PERSON:

TEL NO.: FAX NO.: E-MAIL:

SIGNATURE OF APPLICANT: DATE: