

# **NATIONAL AGRICULTURAL SEEDS COUNCIL ACT, 2019**

## **EXPLANATORY MEMORANDUM**

This Act repeals the National Agricultural Seeds Act, Cap. N5, Laws of the Federation of Nigeria, 2004 and establishes the National Agricultural Seeds Council to promote and stimulate the development of dependable seed industry, regulate and control the registration of released varieties, protect the farmers from the sales of poor quality seeds, facilitate the production and marketing of high quality seeds in Nigeria, and provide legal backing for official testing certification, sales, importation, exportation and use of seed.

This Act also, promotes greater private sector participation in the seed subsector in line with the current agricultural seed policy globalisation and export trade promotion.

# NATIONAL AGRICULTURAL SEEDS COUNCIL ACT, 2019

## Arrangement of Sections

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# NATIONAL AGRICULTURAL SEEDS COUNCIL ACT, 2019

## A Bill

### For

An Act to repeal the National Agricultural Seeds Act, Cap. N5, Laws of the Federation of Nigeria, 2004 and enact the National Agricultural Seeds Council to promote and stimulate the development of dependable seed industry, regulate and control the registration of released varieties, protect the farmers from the sales of poor quality seeds, facilitate the production and marketing of high quality seeds in Nigeria and provide legal backing for official testing certification, sales, importation, exportation and use of seed; and for related matters.

[ ]

Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria -

### PART I — ESTABLISHMENT OF THE NATIONAL AGRICULTURAL SEEDS COUNCIL AND GOVERNING BOARD

1. (1) There is established the National Agricultural Seeds Council (in this Act referred to as "the Council"). Establishment of the Agricultural Seeds Council.
  - (2) The Council is a body corporate with perpetual succession and a common seal and may -
    - (a) acquire, hold or dispose of real and personal property; and
    - (b) sue or be sued in its corporate name.
2. (1) There is established for the Council the Agricultural Seeds Governing Board (in this Act referred to as "the Board"). Establishment of the Governing Board.
  - (2) The Board shall consist of a chairman and a number of members to be defined by a regulation made by the Minister, that includes representatives from -
    - (a) the Ministry of Agriculture not below the rank of a Director and other Ministries and public entities with a role in the seed sector; and
    - (b) the private sector, including farmers' organisations and other members of the seed industry.
  - (3) The Chairman and other members of the Board shall be -
    - (a) persons of proven integrity, ability, vast knowledge and experience in the seed sector; and
    - (b) appointed by the President upon the recommendation of the

3. (1) Notwithstanding anything to the contrary in this Act, the Minister shall exercise all the powers of the Board where the Board has not been constituted or dissolved. Non-constitution or dissolution of the Board.
- (2) Subject to subsection (1), the Director-General of the Council shall, with the approval of the Minister perform such functions of the Board as may be required.
- (3) Any action taken or decision reached in compliance with the provisions of this section shall be valid for all intent and purposes.

## PART II — FUNCTIONS OF THE COUNCIL

4. (1) The Council shall —

Functions of the Council.

- (a) analyse and formulate programmes, policies and actions regarding seed development and the seed industry in general, including research on issues relating to seed testing, registration, release, production, marketing, distribution, certification, quality control, supply and use of seeds in Nigeria, importation and exportation of seeds;
- (b) design improved management system and procedure relating to the administration of seed activity;
- (c) implement official quality control and certification of seeds, and facilitate enrolment of any approved private body in seed certification programmes;
- (d) advise the Federal Government on the organisation, management and financing of seed programs;
- (e) approve seed standards;
- (f) advise the national research system on the changing pattern of seed demand and farmers' needs;
- (g) plan, monitor and evaluate the achievements of the national seed system and recommend improvement thereto;
- (h) encourage the establishment in Nigeria of seed companies for the purpose of carrying out research, production, processing and marketing of seed;
- (i) issue licences and permits under this Act;
- (j) approve policies and strategies to protect small seed producers, local varieties and to promote quality seed production;
- (k) regulate the seed industry in Nigeria;
- (l) represent Nigeria and work closely with the West African

Committee on Seeds for the development of the seed sector;

(m) establish and manage a seed sector support fund; and

(n) perform such other related functions as may be required of the Council subject to the approval of the Board.

(2) From the commencement of this Act, every company incorporated in Nigeria for the purposes specified in subsection (1) (g), shall enjoy such incentives as are granted by the Federal Government to an agricultural and seed enterprises.

(3) The Crop Variety Registration and Release Committee is responsible for making recommendations to the Council on matters relating to —

(a) the registration and release of any given crop variety;

(b) the declaration of a crop variety as a notified kind and for the purposes of this Act, different kinds or varieties of seed may be notified for different areas; and

(c) a crop kind variety intended to be registered under this section may be required to undergo a minimum of two years of test to determine its adaptability to a particular geo-political area.

5. The Board shall —

Powers of the Board.

(a) manage and superintend the affairs of the Council;

(b) fix the terms and conditions of service including remuneration of the employees of the Council;

(c) make, alter and revoke rules and regulations for carrying out the functions of the Council;

(d) ensure the proper resourcing and funding of the Council;

(f) facilitate effective linkages among stakeholders in order to enhance their collaboration for the orderly and balanced growth of the seed sector;

(g) assist government in creating favourable conditions for private investments in the seed sector; and

(h) serve as the highest lobby entity for policies to support the development of the seed sector.

PART III — APPOINTMENT OF THE DIRECTOR-GENERAL AND OTHER STAFF

6. (1) The President shall appoint, on the recommendation of the Minister, a Director-General for the Council who shall be — Appointment of the Director-General.
- (a) the Chief Executive Officer of the Council; and
  - (b) responsible for the execution of the policies and running of the affairs of the Council.
- (2) The Director-General shall possess professional qualifications and cognate experience in seed science and technology.
- (3) The Director-General shall —
- (a) hold office for a term of four years and may be reappointed for another term of four years and no more; and
  - (b) perform such other functions as the Board may direct.
- (4) If, for any reason, the Director-General is unable to perform his functions or carry out his duties, or there exists a vacancy in the office of the Director-General, the Board may designate an employee of the Council, who is next in rank to the Director-General, to act as the Director-General during the period of his inability or vacancy, until a substantive Director-General is appointed in accordance with the provisions of this Act and the employee shall, while so acting, have all the powers and perform all the functions of the Director-General.
7. (1) The Council may make staff regulations relating to — Appointment of other staff and their pension.
- (a) the appointment, promotion, termination, dismissal and disciplinary control of the staff of the Council, as contained in the Scheme of Service of the Federal Civil Service; and
  - (b) appeals by such staff against dismissal or other disciplinary measures in line with the regulation of the Federal Civil Service or any instrument relating to the conditions of service of the officers of the Civil Service of the Federation applicable with such modifications as may be necessary to the staff of the Council.
- (2) Service in the Council is approved service for the purpose of the Pension Reform Act. Act No. 4, 2014.
- (3) A staff of the Council may be appointed by way of transfer or secondment from any Civil Service of the Federation.
- (4) Where any person is seconded under subsection (3), he shall be notified of the terms and conditions of the secondment, and secondment shall be without prejudice to any pension right which, but for the secondment, will accrue to him.

(5) A person seconded under subsection (3) may elect to transfer his service to the Council in which case any previous service shall be qualifying service as defined in the Pension Reform Act.

Act No. 4, 2014.

8. (1) The Board shall appoint for the Council, a Secretary and Legal Adviser who shall be a legal practitioner and must have been so qualified for a period of not less than 10 years.

Appointment of Secretary and Legal Adviser.

(2) The Secretary and Legal Adviser shall —

(a) be the Secretary to the Board;

(b) be responsible for keeping the books and proper records of proceedings and correspondences of the Board and the upkeep of the records of the Council;

(c) administer and discharge all legal obligations of the Council;

(d) administer and discharge all insurance requirements of the Council;

(e) retain external legal services on behalf of the Council as he may deem necessary or expedient; and

(f) perform such other functions as the Board or the Director-General, as the case may be, assign to him.

#### PART IV — APPOINTMENT AND FUNCTIONS OF SEED INSPECTORS

9. (1) The Council shall appoint seed inspectors and define the area within which they may exercise jurisdiction.

Appointment and functions of seed Inspectors.

(2) A Seed Inspector shall —

(a) take samples of any seed of any variety or hybrid from —

(i) any person selling seed or displaying such seed for the purpose of selling,

(ii) any person who is in the course of conveying, delivering or preparing to deliver such seed to a purchaser or a consignee, or

(iii) a purchaser or a consignee after delivery of such seed to him;

(b) end such sample to the seed analyst for the area within which such sample was taken for analyses;



- (c) enter and search any seed related premises including seed distribution compound and buildings and seed deposit, warehouses, store rooms and storage areas in which he has reason to believe that an offence, as defined under this Act has been or is being committed, and order in writing the person in possession of any seed in respect of which the offences has been committed, not to dispose of any stock of such seed for a specific period not exceeding thirty days;
  - (d) examine any record, register, document or any other material object found in any premises pursuant to paragraph (c) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act;
  - (e) undertake all inspection, including field inspection, necessary to implement and monitor seed production and certification; and
  - (f) discharge such other duties as may be necessary to meet the purpose of this Act or any regulation made under the Act.
- (3) For the performance of its functions, a seed inspector shall seek the cooperation of seed operators.
  - (4) If the seed inspector has reason to believe that any of the provisions of this Act is being violated, he shall request the operator to open up any container, package or premises in which seed of any kind or variety is kept for sale.
  - (5) If the seed operator mentioned in subsection (4) refuses to open the container, package or premises, the inspector may open the container, package or enter in the premises, with the exception of dwelling places, when the inspector has reasonable suspicion that the provisions of this Act are being violated.
  - (6) In a case where the inspector suspects that seeds are stored in a dwelling place in breach of this Act, he shall request a permit or warrant to undertake inspection according to national legislation.
  - (7) Where the seed inspector takes any action under subsections (4) and (5), he shall, at the time when such action is being taken, prepare an inspection report and obtain the required signatures on a memorandum to be prepared in the prescribed form and manner and send it to the Council.

#### PART V — SEED REGISTRATION AND RELEASE

10. (1) The Council shall regularly publish the National Seed Catalogue with a list of released varieties that are eligible for certification in Nigeria.
- (2) Only varieties that are registered and released are qualified for the certification programme in Nigeria pursuant to the criteria established in this Act.

National seed catalogue.

- (3) Whenever necessary, the Council shall recommend an update list of priority crop seed to be introduced into, or removed from, the National Seed Catalogue.
- (4) The proposed crop seeds, once registered and released, are eligible for certification.
- (5) The Minister, on the advice of the Council, shall approve the procedures for registration of new varieties in the National Seed Catalogue, including accelerated procedures for registration of varieties from similar agro-ecological zones with proven adaptation and agronomic performances for the crop growing conditions of Nigeria.
11. (1) For the purposes of this Act, the West African Catalogue of Plant Species and Varieties shall serve as reference and complement to the National Seed Catalogue. West African Catalogue of Plant Species and Varieties.
- (2) Only varieties that are registered and released in the National Seed Catalogue or in the West African Catalogue of Plant Species and Varieties are qualified for certification programme in Nigeria, pursuant to the criteria established in this Act.
12. The Council shall establish the Seed Registration and Release Subcommittee (in this Act referred to as "the Subcommittee"), to advise the Council on - Seed registration and release subcommittee.
- (a) the establishment and update of the National Seed Catalogue;
  - (b) the evaluation of information from National Performance Trials from the compilations of independently conducted trials;
  - (c) any matter for approval by the Council regarding the release and registration of varieties; and
  - (d) the implementation of the Economic Community of West African States (ECOWAS) West African Seed Catalogue.
13. (1) Prior to registration, new varieties for release in the domestic market shall undergo a multi-year and multi-location testing as set out in the variety release and registration guidelines. Registration of varieties for release in the domestic market.
- (2) Domestic varieties used in informal seed systems are subject to registration and description only prior to their release to the market.
- (3) Registered foreign-bred varieties for release on the domestic market shall undergo a limited multi-location verification trial as determined by the subcommittee in accordance with its rules and procedures.
- (4) In order to facilitate the release of new varieties on the domestic market, the Minister, on the advice of the Subcommittee, may waive the testing requirements for varieties falling under the subsection (1), if the variety is registered under a regional variety release system.

(5) Genetically modified varieties are considered if they conform to the bio-safety regulations of Nigeria, including the Cartagena Protocol, Montreal.

2000.

14. Varieties for which either reproduced seed or produce shall be exported are not subject to variety release or registration requirements unless otherwise required by the importing country, but are nonetheless subject to all controls under prevailing phytosanitary bio-safety and other relevant legislation.

Registration and release of varieties for export purposes.

#### PART VI — SEED CERTIFICATION AND OFFICIAL CONTROL

15. (1) The Council shall establish an official quality control and certification service, (in this Act referred to as the "Official Certification Service") responsible for seed certification and quality control.

Quality control and seed certification service.

(2) The Official Certification Service shall approve a programme of seed certification to certify that the seeds -

(a) are of acceptable variety or genetic purity;

(b) are in good physiological and health conditions; and

(c) meet the seed standards, as appropriate.

(3) The Official Certification Service shall elaborate technical regulations including seed certification standards approved by the Council.

(4) The Council may authorise private certification bodies to undertake quality control and seed certification on behalf of, and under the supervision of the Council.

16. (1) The Council shall approve national standards for seed certification, including requirements, procedures and criteria for seed certification.

Seed certification and standards.

(2) The national standards for seed certification shall be in compliance with the ECOWAS regulations and relevant international standards, and shall be published as prescribed.

17. (1) Only seeds of varieties listed in the National Seed Catalogue and West African Catalogue of Plant Species and Varieties are eligible for multiplication under certification scheme, with a view to their being sold as seed.

Seed multiplication.

(2) The characteristics of these varieties shall conform to those of the samples deposited at the time of registration in the National Seed Catalogue or the West African Catalogue of Plant Species and Varieties and maintained under the responsibility of the Subcommittee charged with registration in the catalogue.

18. (1) The Council shall establish, by regulation, the seed categories recognised in Nigeria, including -

Seed categories.

(a) breeder seed;

(b) foundation or inbred lines;

(c) certified seeds; or —

(d) equivalent nomenclature that follows regional or international commitments and recommendations.

(2) Certified seed may apply to several successive generations.

(3) The last generation authorised by regulations shall not be used for the production of certified seeds, unless otherwise provided in regulation.

(4) The Minister shall approve, by regulation, the categories of planting materials for certification purposes.

19. (1) A person shall not engage in seed production, processing, marketing or importation for commercial purposes unless the person is registered under this Act.

Obligation to register as seed operator.

(2) The Minister shall approve, by regulation, the procedure and technical requirements for registration of seed-related activities which are not seed production.

(3) This section does not apply to -

(a) a person growing and delivering seeds of any variety directly to another person without monetary consideration for use by that other person for sowing on the latter's own farm; and

(b) small exchanges of seeds among small farmers.

20. (1) A person shall not produce any seed in commercial quantities unless that person is registered as a seed producer by the Council.

Registrations of seed producers.

(2) Any person who wants to produce seed in commercial quantity shall apply to the Council -

(a) for a licence as a seed producer; and

(b) to enrol in the seed certification and programme or a different quality assurance mechanisms approved under the law.

(3) Every application under subsection (1) shall be in such form and follow such procedure as may be prescribed by the Council.

21. (1) The Council shall grant a licence as a seed producer for one or several species listed in the National Seed Catalogue or West Africa Catalogue of Plant Species and Varieties.

Procedure to apply for a licence as seed producer.

(2) The Council may further grant a licence as a seed producer for unregistered or

obsolete species under official quality control under this Act.

(3) Licences are granted to producers who -

(a) submit an application as prescribed and pay for the prescribed fees before the start of the cropping season; and

(b) meet the requirements prescribed by regulation, including:

(i) the pledge to observe the technical regulations,

(ii) having sufficient land,

(iii) having sufficient qualified technical personnel,

(iv) having appropriate facilities and equipment for the targeted seeds, and

(v) collaborating with seed inspectors and giving them free access to the crops.

(4) The applicant shall be notified of acceptance or rejection within a reasonable time established by regulation.

(5) A licence for a seed producer shall have its validity as set out by the regulation.

(6) The Council shall suspend a licence, following written notification:

(a) for non-observance of the technical regulations approved under this Act; or

(b) if the operator is sanctioned for fraud in the sale of seed or a different infringement punishable without suspension.

(7) The Council shall withdraw a licence, after a written notification, where the seed producer -

(a) has not been active for two consecutive years;

(b) commits an infringement punishable by suspension within one year of the lifting or previous suspension; and

(c) under suspension has not conformed to the prescribed requirements within 30 days of such suspension.

(8) In case of suspension or withdrawal under this section, the Council shall serve notice of termination to the licence holder, including information on appeal procedures and time period to submit a new application.

22. A registered seed operator shall only have access to appropriate early generation seed

Access to seed materials.

required for the production of seed class he has been authorised to produce.

23. The Minister may, on the advice of the Council, recognise any seed certification agency established in any foreign country, provided that such agency implements rules and regulations that meet the requirements under this Act and such recognition shall be published in the Federal Government Gazette. Recognition of foreign seed certification agencies.
24. From the commencement of the Act, every company incorporated in Nigeria for the purposes of seed production shall enjoy such incentives as are granted by the Federal Government to an agricultural and seed enterprise. Incentives to the seed industry.

#### PART VII — SEED PRODUCTION AND PROCESSING

25. (1) A person licensed as a seed operator shall adhere to the production zones and areas recommended by the breeder of a given variety. Conditions of production.
- (2) The seed field shall be accessible for inspection throughout the growing cycle.
- (3) The number of varieties and categories authorised for multiplication on the same agricultural holding shall be determined by the species and standard laid down by regulation.
- (4) The number of varieties shall not be limited for testing stations or testing fields on condition that the isolation standards are observed.
- (5) All seed operators and growers shall have documented evidence of the origin of the early generation seed procured for further multiplication, such as certification label, invoice, delivery slip or any other suitable document.
26. (1) The Official Certification Service or approved private certification body shall ascertain that the producer or seed grower uses appropriate certified early generation seed, unless otherwise provided in the Act. Control of the production.
- (2) The control by the Official Certification Service or approved private certification body shall occur at all stages of the process from production, processing, packaging storage, transport, marketing to use of the seeds.
- (3) Before the beginning of each certification season, a person who want to enrol in official quality assurance shall send prior notification of sowing to the Official Certification Service or approved private certification body within a reasonable period of time.
- (4) Any subsequent modification to the notification of sowing shall be reported immediately to the quality control and Official Certification Service or any other approved private certification body.
- (5) A seed plot may be abandoned for climate or technical reasons at any stage of the vegetative process and the producer shall inform the Official Certification Service or approved private certification body.

27. (1) A seed producer shall not conclude a multiplication contract with several producers, unless the Official Certification Service or approved private certification body so authorises, where the contract with several producers does not cause prejudice to any one of them. Multiplication on contract.

(2) The multiplication contract agreed between the seed producer and one or several seed producers includes -

(a) a commitment of the seed producer to respect existing regulations to allow the control agents to inspect his crops and to ensure appropriate crop isolation distances in neighbouring seed crops;

(b) a commitment of the operator to provide the seed producer with all necessary technical instructions and to deliver the appropriate early generation seeds in good time; and

(c) provisions that specify the details of both parties, the method for price determination and delivery, and clauses addressing potential risk in production.

28. (1) The Official Certification Service or approved private certification body shall designate seed inspectors to carry out control of licensed seed producers and implement seed certification programmes. Inspections.

(2) Seed inspectors shall carry out field visits and produce a field inspection report at each visit.

(3) Field inspections and controls shall verify that the seed field meets the -

(a) standards for variety purity, physical purity, weeds and health status; and

(b) number of inspections and procedures of control established per crop and area by regulation.

(4) Inspections shall be organised by seed lots constituted and identified as prescribed by regulation.

(5) Inspections shall take place in the presence of the seed grower or an authorised representative of the producer and shall result in an inspection report on the observed condition of the seed plots.

(6) The report shall contain, among others, technical recommendations or instructions reflecting the seed plots.

(7) Any producer accepted for control may install an internal crop control structure employing qualified seed technicians.

- (8) Inspectors may reject a crop after verification that the technical recommendations or instructions given at previous visits have not been observed.
- (9) Rejections shall be notified to the seed grower or producer as soon as possible in a justified report.
29. (1) A seed sampling shall be done in accordance with the international reference standards and packaged in packets bearing the information detailed by regulation. Sampling and laboratory analysis.
- (2) All seed lots submitted for certification shall be analysed by a seed analyst or in a seed laboratory designated by the Council.
- (3) Seed analysis shall focus on -
- (a) analytical purity;
  - (b) water content;
  - (c) germination test;
  - (d) health test; and
  - (e) variety purity.
30. (1) There shall be a Central Seed Testing Laboratory (in this Act referred to as "the Seed Laboratory") designated by the Minister on the recommendation of the Council. Seed laboratory.
- (2) The Seed Laboratory shall accredit, supervise and provide technical support to regional and other seed testing laboratories and bring seed testing services in line with international standards.
31. (1) Seeds presented for certification shall be conditioned in a seed conditioning facility approved by the Council as prescribed. Seed packaging and labelling.
- (2) Seeds shall be packaged in materials authorised by the Council.
- (3) Packages of certified seeds shall be labelled as prescribed, including -
- (a) the name and address of the producer or distributor;
  - (b) the logo or trade name, where this exists;
  - (c) the name of the species and the variety as listed in the National Seed Catalogue or the West African Catalogue of Plant Species and Varieties;
  - (d) the category, generation and cycle of production;
  - (e) the net weight;



- (f) the certification label;
- (g) the name of the product used for treatment; and
- (h) any other information prescribed in the regulation.

(4) Division and repackaging of packaged and labelled seed lots shall be done in the presence of an agent of the Official Certification Service or approved private certification body.

(5) The new labels shall bear the same particulars as the original labels with an additional annotation of repackaging.

32. (1) In addition to the labelling requirements under section 31, certified seeds shall not be placed in the market unless they are labelled with a certification label issued by the Official Certification Service or approved private certification body.

Certification of labelling.

(2) Certification labels shall comply with the regional and international standards.

33. (1) Seed storage and transport facilities shall be –

Seed storage and post-certification control.

(a) maintained with the appropriate temperature and humidity levels; and

(b) clean, well aerated and regularly disinfected for proper seed conservation.

(2) The Council shall approve, by regulation, detailed requirements for seed storage and distribution.

(3) The Council shall approve the procedures and requirements for post-certification control, including seed processing marketing.

34. (1) The Council may revoke any certification granted under this Act if it is satisfied that the certification was obtained by misrepresentation, or that the holder of the certification has contravened any of the provisions of this Act or any regulation made under this Act.

Revocation of certification.

(2) The Council shall, before revoking any certification, give due notice to the aggrieved seed operator.

(3) A person who is aggrieved by a decision of the Council under subsection (1) may appeal to the Minister within 30 days from the date on which the decision was communicated to him:

Provided that the Minister may entertain an appeal at the expiration of the period of 30 days if the Minister is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) On receipt of an appeal under subsection (3), the Minister shall, after giving the appellant an opportunity of being heard, dispose of the appeal expeditiously.

35. (1) A seed of registered varieties from the informal seed sector is exempted from the compulsory certification requirements established under this Act, unless such is commercialised, at which time it shall be subject to the quality control procedures approved under this Act. Informal seeds.

(2) For registered varieties for which there is no seed certification standard, the Minister may, on the advice of the Council, approve specific quality control procedures including -

(a) minimum limits for germination, physical purity, sanitary conditions and other requirements, as appropriate; and

(b) the form and content of tags and labels to be affixed to such seed lots. Informal seeds.

(3) For unregistered or obsolete varieties, the Minister may, on the advice of the Council, approve standards on quality control which includes -

(a) minimum limits for germination, physical purity, sanitary conditions and moisture content, as appropriate; and

(b) the form and content of labels or tags to be affixed to such seed lots.

(4) The Council shall approve policy measures and programmes to support the progressive enrolment of seed producers in certification programmes or other quality control programmes and capacity building in the informal seed sector.

36. (1) A person shall not, for the purpose of sowing or planting by any other person (including himself), export or import or cause be exported or imported any seed or hybrid without a written authorisation from the Council and - Seed import and export.

(a) any seed for import shall meet the standards approved by the Council, including the prescribed limited test, evaluation or multi-locational trials;

(b) with the exception of seed from ECOWAS members States, any imported seed for marketing in Nigeria shall be officially released by the Council upon the approval of Crop Variety Registration and Release Sub-Committee; and

(c) any seed for export shall be certified and comply with all necessary phytosanitary requirements.

(2) A person intending to import, for commercial or research purposes, seed of a genetically modified variety shall comply with the bio-safety regulations of Nigeria and notify the Council prior to the importation.

37. (1) A person may apply to the Council for a permit to import or export seeds provided that the person -
- Application for exporting and importing seeds.
- (a) submits an application on the prescribed forms and follow the prescribed procedures, including payment of fees when applicable; and
  - (b) complies with the phytosanitary, bio-safety and other requirements in the national legislation.
- (2) The Council shall send a copy of such application to the Nigerian Agricultural Quarantine Service.
- (3) All seed samples meant for research purposes and seeds intended for export from, or import into, Nigeria shall carry the necessary phytosanitary certificates and viability test results.
- (4) A seed shall not be imported unless it is certified by the official seed-certifying agency of the exporting country, except for research purposes or unless otherwise prescribed in the regulation.

#### PART VIII — SUPPORT TO PLANT VARIETY DEVELOPMENT AND PLANT BREEDERS' RIGHTS

38. The Council shall —
- Support to research on plant varieties.
- (a) participate in the registration of new crop varieties as provided for in the national legislation; and
  - (b) approve and implement programmes and measures designed to promote genetic improvement of plant varieties and the protection of breeders' rights.
39. (1) Plant breeders' rights shall be granted in respect of registered new plant varieties as specified in an Act of the National Assembly on plant variety protection.
- Protection of breeders' rights.
- (2) The Act on plant variety protection mentioned under subsection (1) shall regulate the -
- (a) registration of new plant varieties against internationally recognised criteria;
  - (b) protection of plant breeders' rights; and
  - (c) maintenance and update of the National Varietal Catalogue.
40. (1) The Minister shall promote policies and strategies to foster registration of new plant varieties and protection of farmers' rights.
- Temporary measures to protect farmers' rights.

(2) Subject to the provisions of relevant Acts of the National Assembly, the Minister shall approve and implement measures to facilitate the protection of farmers' rights to save, use exchange and sell farm saved seed subject to restrictions specified in the regulations, including the -

- (a) protection of their traditional knowledge relevant to plant genetic resources;
- (b) right to equitably share in the benefits arising from the use of plant genetic resources; and
- (c) right to participate in decision-making on matters related to the conservation and sustainable use of plant genetic resources.

#### PART IX — INFRINGEMENTS AND OFFENCES

41. (1) A person who contravenes the provisions of this Act or any regulation made under it commits an offence. Offences.

(2) The following acts constitute a breach of the provisions of this Act and its enabling regulations -

- (a) prevention of a seed inspector from taking sample under this Act;
- (b) prevention of a seed inspector from exercising any other power conferred on him under this Act;
- (c) production and marketing of seed without licence by the Council;
- (d) marketing of seed without accreditation;
- (e) misleading information on seed labelling, wilful modification or alteration of labelling and the use of any trickery to mislead third parties as to the quality of the seeds;
- (f) distribution from animal or human consumption of seeds treated with substances dangerous to human or animal health and unfit for consumption;
- (g) failure to keep proper records and documents as laid down under section 9 (2) of this Act;
- (h) import or export of conventional and genetically modified crop seeds violation or applicable declaration;
- (i) obstruction of official inspection or control activities;
- (j) non-compliance with the condition of admission for control; and

(k) fraud or attempted fraud in the utilisation or marketing of seeds.

42. (1) A person who commit an offence under this Act is liable upon conviction -

Penalties.

(a) as a first offender, to imprisonment for a term not exceeding one year or a fine not exceeding ₦1,000,000; and

(b) in the event of such person having been previously convicted under this section, he is liable to imprisonment for a term not exceeding two years or a fine of ₦2,000,000 or both.

(2) Where a person has been convicted under this Act, the seed in respect of which the contravention occurred may be forfeited to the Federal Government.

(3) Where an offence under this Act is committed by a company, any officer who, at the time the offence was committed, was in charge of the conduct of the business of the company, as well as the company, is deemed to be guilty and liable:

Provided that nothing contained in this subsection shall render such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(4) Where an offence under this Act is committed by a company with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or officer of the company, such director, manager, secretary, or officer is deemed to have committed the offence and is liable.

43. (1) A person who is aggrieved by a decision of the Council under this Act may appeal to the Minister within 30 days from the date in which the decision was communicated to him.

Appeals.

(2) The Minister may entertain an appeal at the expiration of the period of 30 days if the Minister is satisfied that the appellant was prevented, by sufficient cause, from filing the appeal in time.

44. (1) A suit shall not be commenced against the Council before the expiration of a period of one month, after written notice of intention to commence the suit shall have been served on the Council by the intending plaintiff or his representative, and the notice shall clearly state the —

(a) cause of action;

(b) particulars of the claim;

(c) name and place of abode of the intending plaintiff; and

(d) relief which he claims.

(2) The notice referred to in subsection (1) of this section and any summons, notice or other document required or authorised to be served on the Council under the provisions of this Act or any other enactment or law may be served by —

(a) delivering same to the office of the Director-General; or

(b) sending it by registered post addressed to the Director-General at the Head Office of the Council.

#### PART X — ESTABLISHMENT OF THE FUND OF NATIONAL AGRICULTURAL SEED COUNCIL

45. (1) The Council shall establish a fund from which shall be defrayed all expenditure incurred by the Council. Fund of the Council.

(2) There shall be paid and credited to the Fund established under subsection (1) —

(a) initial take-off grant by the Government;

(b) such money as may be provided to the Council by the yearly budgetary allocation approved by the National Assembly;

(c) such money as may be granted or received from -

(i) the private sector, and

(ii) non-governmental organisations, national or international and;

(d) such sum as may be approved by the President from Natural Resources Fund;

(e) such money as may be granted to the Council by the Federal Government, a State or Local Government Council;

(f) all interest receipt in respect of monies invested by the Council including revenue earned from its various activities;

(g) money collected from fees, controls, inspections and permits issued by the Council under this Act; and

(h) all other assets accruing to the Council.

(3) The Board shall make rules for the management of the Fund under subsection (1) and such rules shall, in particular, contain provisions -

(a) specifying the manner in which the assets or the Fund are to be held, and regulating the making of payments into and out of the Fund;

- (b) requiring the keeping of proper accounts and records for the purposes of the Fund in such form as may be specified in the rules;
  - (c) ensuring that the accounts are audited periodically by the auditor appointed from a list and in accordance with guidelines supplied by the Auditor-General for the Federation; and
  - (d) requiring copies of the accounts and auditor's report to be furnished to the Minister.
- (4) The Council may, with the approval of the Board, borrow by way of overdraft or otherwise such sums as it may require for the performance of its functions under this Act.

#### PART XI — ESTABLISHMENT OF DEPARTMENTS AND ZONES

46. (1) There are established for the Council —

Establishment of  
department and zones.

- (a) the Seed Industry Development, Technical Support and Commercial Services Department;
- (b) the Seed Coordination and Management Services Department;
- (c) the Seed Certification, Quality Control, Crops Seed Registration and Release Department;
- (d) the Seed Information Data Management and Capacity Building Department;
- (e) the Seeds Inspectorate Services Department;
- (f) the Administration and Finance Department; and
- (g) such other departments or bodies as the Board may deem expedient for effective performance of the functions of the Council under this Act.

(2) Each of the Department referred to under subsection (1) shall be headed by an officer not below the rank of a Director.

47. (1) The Council shall have six Operating Zones and six Zonal Offices as listed in the Second Schedule to this Act.

Zonal offices  
Second Schedule.

(2) Each Zonal Office shall be headed by a Director or Deputy Director and have such numbers of professional staff the Council may deem necessary.

48. The Council shall maintain a register of persons licensed to engage in seed production and marketing under the following classification -

Register.

- (a) seed production company;
- (b) seed enterprises production on contract for seed company;
- (c) breeder seed production agency including research institutes (both public and private);
- (d) foundation seed grower (research institutes and private);
- (e) enterprise or seed processor; and
- (f) seed dealer whether as wholesaler or retailer.

49. (1) Any person who sells, keeps for sale, barter or otherwise supplies any seed of any variety or hybrid shall apply to the Council for grant of certification for the purpose. Issuance of certification.
- (2) Every application under subsection (1) shall be in such form and contain such particulars and fees as may be prescribed by the Council.
- (3) On the receipt of an application for the grant of certification, the Council may, after making such enquiry as it deems fit and after satisfying itself that the seed to which the application relates is a progeny of a pedigree seed and conforms to the field and seed standard for that seed under this Act, grant a certificate in such form and on such conditions as may be prescribed.

#### PART XII — POWER TO PROSECUTE

50. Subject to the provisions of section 174 of the 1999 Constitution of the Federal Republic of Nigeria, the Council may, with the consent of the Attorney-General of the Federation, conduct criminal proceeding in respect of offences under this Act. Power to prosecute.

#### PART XIII — MISCELLANEOUS

51. (1) The Council may make regulations to attain the purposes of this Act and, in particular, such regulations may provide for the— Power to make regulations.
- (a) functions of the Central Seed Testing Laboratory;
  - (b) certification of seeds;
  - (c) manner of marking or labelling the container of seed of any notified kind, hybrid or variety under section 31 of this Act;
  - (d) requirements to be complied with by persons carrying on the business referred to in sections 31 and 32 of this Act;
  - (e) form of application for the grant of the certificates under sections 28,29,30,31 and 32 of this Act, the particulars it may



contain, the fees which may accompany it, the certificate and the conditions for granting the certificate;

- (f) form and manner in which the fee on payment of which an appeal may be preferred under section 15 (3) of this Act and the procedure to be followed by the Minister in disposing of the appeal;
- (g) qualifications and duties of seed analyst and seed inspectors;
- (h) establishment of intellectual property rights policy and guidelines; and
- (i) formulation of policy, regulation and guidelines on genetically modified crop seeds introduction, domestication, confinement and use.

(2) Any regulation made under subsection (1) shall be published in the Federal Government Gazette.

52. The National Agricultural Seeds Act, Cap. N5, Laws of the Federation of Nigeria, 2004 is repealed.

Repeal of Cap. N5,  
LFN, 2004.

53. (1) Any approval granted under the repealed Act shall continue to be in force, notwithstanding the repeal.

Savings and transition.

(2) The Council is subject to all obligations and liabilities to which it was immediately before the commencement of this Act, and all other persons shall, as from the commencement of this Act, have the same powers rights and remedies as they had under the repealed Act.

54. In this Act -

Interpretation.

"agricultural seeds" includes cereals, legumes, oil seed, grass, fibre, root, tuber, tree or any other kind of crop seed or seedling commonly recognised within Nigeria as agricultural seed, lawn seed, vegetable seed, forestry seed and seedlings, conventional or genetically modified seeds, horticultural seeds and seedlings, ornamental seeds, seed mixtures and all planting materials as the Minister may designate;

"certified seed" means any prescribed seed that is certified under the provisions of this Act;

"container" means a box, casket, tin, barrel, tank, receptacle sack, bag, wrapper or other thing in which any article or thing is placed or packed;

"Council" means the National Agricultural Seeds Council established under section 1 (1) of this Act;

"Departments" means the Departments established under section 46 (1) of this Act;

"export" means taking out of Nigeria to a place outside Nigeria;

"Government" means the Federal Government of Nigeria;

"labelling" means any label or other written, printed or graphical representation, in any form, accompanying and pertaining to seed, whether in bulk or in container;

"import" means bringing into Nigeria from a place outside Nigeria;

"Minister" means the Minister charged with the responsibility for agricultural development and other related matters;

"notified kind or variety", in relation to any seed, means any kind of seed or variety notified under this Act;

"seed importer" means any person who, either exclusively or in conjunction with any other trade or business, imports seeds into Nigeria for resale;

"seed inspector" means the person appointed as seed inspector under section 9 (1) of this Act;

"seed laboratory" means the Central Seed Testing Laboratory designated as such under section 30 (1) of this Act;

"seed operator" means a person who produces and market seeds and is licenced by the Council;

"seed producer" means any person who either exclusively or in conjunction with any other trade or business, produces seeds for sale;

"seed seller" means any person who, either exclusively or in conjunction with any other person, trade or business, sells seeds for growing to Nigerian farmers;

"sell" includes to exchange or to offer, advertise, keep, expose, transmit, convey or deliver in pursuance of a sale, exchange or barter;

"variety" means a sub-division of any crop species which can be differentiated from other sub-division of that kind of growth, plant, fruit or other characteristics and any uniform group which can be a first generation hybrid or a plant population reconstituted on each occasion by crossing two or more breeding stock maintained by inbreeding or population maintained; and

"weed seed" includes the seed of all plants included as weeds in the Seed Regulations or commonly recognised as weeds in Nigeria.

55. This Act may be cited as the National Agricultural Seeds Council Act, 2019.

Citation.

Schedules

First Schedule

Section 2 (13)

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

*Proceedings of the Board*

1. Subject to section 2 (13) of this Act and section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or those of any of its committees.
2. The quorum of the Board shall be seven and the quorum of any committee of the Board shall be determined by the Board.
3. At any time while the office of the Chairman is vacant or the Chairman, in the opinion of the Board, is temporarily or permanently unable to perform the functions of his office, the Vice-Chairman shall perform the functions of the Chairman.
4. (1) Subject to the provisions of any applicable standing order, the Board shall meet quarterly and whenever summoned by the Chairman, but if the Chairman is required to do so by notice given to him by at least six other members, he shall summon a meeting of the Board to be held within 21 days from the date on which the notice is given.  
  
(2) Where the Board wishes to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it deems fit, but a person who is not member by virtue of this subparagraph is not entitled to vote in such meeting and shall not count towards quorum.
5. (1) The Board may set up one or more committees to perform, on behalf of the Board, such functions as the Board may determine.  
  
(2) A committee set up under this paragraph shall consist of the number of persons determined by the Board and not more than one-third of those persons may be persons who are not members of the Board, and a person other than a member of the Board shall hold office on the committee in accordance with the terms of the instrument by which he is appointed.  
  
(3) A decision of a committee or the Board is of no effect until the Board ratifies it.
6. (1) The fixing of the seal of the Board shall be authenticated by the signature of the Chairman or another member authorised generally or specifically by the Board to act for that purpose.  
  
(2) A contract or instrument, which if made or executed by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Board by any person generally or specifically authorised to act for that purpose.

Minister.

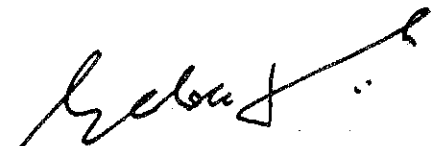
- (4) The Chairman and members of the Board shall hold office for a term of four years and may be reappointed for another term of four years and no more.
- (5) A member of the Board shall be paid such allowances as the Federal Government may direct.
- (6) The Chairman or member of the Board, may at any time, be removed from office by the President for inability to discharge the functions of his office, whether arising from infirmity of the mind or body or for any fraudulent act or misconduct.
- (7) The Chairman or member may resign by a notice addressed through the Minister to the President and the notice of resignation shall become effective from the date of acceptance of the resignation by the President.
- (8) Upon the occurrence of any vacancy in the membership of the Board, the Chairman shall immediately communicate this fact to the Minister who shall ensure that the vacancy is filled as contained in this section.
- (9) The office of the Chairman or member becomes vacant if he —
  - (a) dies;
  - (b) becomes insane or he is suffering from any permanent disability which will render him unable to perform his functions;
  - (c) is an undischarged bankrupt; or
  - (d) is convicted of the commission of a crime relating to fraud or gross misconduct.
- (10) Without prejudice to the provisions of this Act, where a majority of the members of the Board are satisfied that the continued presence of the Chairman or a member on the Board is not in the national interest or the interest of the Council, the Board may recommend, through the Minister, to the President for the removal of the Chairman or a member.
- (11) A decision of the Board shall not be invalidated solely on the reason that there exists a vacancy in the office of a member.
- (12) In the absence of a duly constituted Board for the Council, the Director-General of the Council shall, with the approval of the Minister, perform such functions of the Board as may be required.
- (13) The supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters specified in the Schedule.

First Schedule.

OPERATING ZONES

1. North-Central Zone, comprising the Federal Capital Territory Abuja, Benue, Kwara, Nassarawa, Kogi, Niger and Plateau States with the Secretariat in Jos, Plateau State.
2. North-Eastern Zone, comprising Adamawa, Bauchi, Gombe, Borno, Taraba and Yobe States with Secretariat in Gombe, Gombe State.
3. South-Eastern Zone, comprising Abia, Ebonyi, Anambra, Enugu and Imo States with Secretariat in Umudike, Abia State.
4. South-Western Zone, comprising Lagos, Ekiti, Ogun, Ondo, Osun and Oyo States with Secretariat in Ibadan, Oyo State.
5. North-Western Zone, comprising Jigawa, Kaduna, Zamfara, Katsina, Kebbi, Kano and Sokoto States with Secretariat in Zaria, Kaduna State.
6. South-South Zone, comprising Akwa Ibom, Bayelsa, Cross River, Delta, Edo and Rivers States with Secretariat in Asaba, Delta State.

I, CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THIS BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.



MOHAMMED ATABA SANI-OMOLORI  
CLERK TO THE NATIONAL ASSEMBLY

24<sup>th</sup> DAY OF MAY, 2019

**Schedule to the National Agricultural Seeds Council Bill, 2019**

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
National Agricultural Seeds Council Bill, 2019.	An Act to repeal the National Agricultural Seeds Act, Cap. N5, Laws of the Federation of Nigeria, 2004 and enact the National Agricultural Seeds Council to promote and stimulate the development of dependable seed industry, regulate and control the registration of released varieties, protect the farmers from the sales of poor quality seeds, facilitate the production and marketing of high quality seeds in Nigeria and provide legal backing for official testing certification, sales, importation, exportation and use of seed; and for related matters.	<p>This Bill repeals the National Agricultural Seeds Act, Cap. N5, Laws of the Federation of Nigeria, 2004 and establishes the National Agricultural Seeds Council to promote and stimulate the development of dependable seed industry, regulate and control the registration of released varieties, protect the farmers from the sales of poor quality seeds, facilitate the production and marketing of high quality seeds in Nigeria, and provide legal backing for official testing certification, sales, importation, exportation and use of seed.</p> <p>This Act also, promotes greater private sector participation in the seed subsector in line with the current agricultural seed policy globalisation and export trade promotion.</p>	17 <sup>th</sup> April, 2019.	11 <sup>th</sup> December, 2018

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

*[Signature]*  
**MOHAMMED ATABA SANI-OMOLORI**

Clerk to the National Assembly

24<sup>th</sup> Day of May, 2019

*[Signature]*  
**MUHAMMADU BUHARI, GCFR**

President of the Federal Republic of Nigeria

24 Day of May, 2019

*[Signature]*

I ASSENT