

English Translation¹ of Seed Law Amendment (2021) December 24, 2021

Seed Law 种子法 2015 revision	Seed Law Amendment 种子法(2021) December 24, 2021
<p>Article 1 This Law is developed for purposes of protecting and making rational use of germ plasm resources, standardizing variety selection and cultivation, as well as seed production and business operation and the administration thereof, protecting the right to new varieties of plants, safeguarding the lawful rights and interests of seed producers, traders and users, improving the quality of seeds, pushing forward the industrial management of seeds, developing modern seed industry, guaranteeing grain safety of the state, and promoting the development of agriculture and forestry.</p>	<p>Article 1 This Law is developed for purposes of protecting and making rational use of germ plasm resources, standardizing variety selection and cultivation, as well as seed production and business operation and the administration thereof, strengthening scientific and technological research in seed industry, encouraging the innovation of breeding, protecting the right to new varieties of plants, safeguarding the lawful rights and interests of seed producers, traders and users, improving the quality of seeds, developing modern seed industry, guaranteeing grain safety of the state, and promoting the development of agriculture and forestry.</p>

¹ THE USPTO IS PROVIDING THIS TRANSLATION SOLELY AS A CONVENIENCE TO THE ENGLISH-READING PUBLIC. WE HAVE ATTEMPTED TO PROVIDE AN ACCURATE ENGLISH TRANSLATION OF THE CHINESE DOCUMENT, BUT DUE TO THE NUANCES IN TRANSLATING FROM CHINESE TO ENGLISH, SLIGHT DIFFERENCES MAY EXIST. WE WILL MAKE EVERY EFFORT TO CORRECT ERRORS BROUGHT TO OUR ATTENTION.

UNITED STATES
PATENT AND TRADEMARK OFFICE



第一条 为了保护和合理利用种质资源，规范品种选育、种子生产经营和管理行为，保护植物新品种权，维护种子生产经营者、使用者的合法权益，提高种子质量，~~推动种子产业化~~，发展现代种业，保障国家粮食安全，促进农业和林业的发展，制定本法。

第一条 为了保护和合理利用种质资源，规范品种选育、种子生产经营和管理行为，**加强种业科学技术研究，鼓励育种创新**，保护植物新品种权，维护种子生产经营者、使用者的合法权益，提高种子质量，发展现代种业，保障国家粮食安全，促进农业和林业的发展，制定本法。

Article 9 The state shall, in a planned way, conduct general survey, collect, sort out, verify, register, preserve, exchange and utilize germ plasm resources, and on a periodical basis, issue the catalogue of available germ plasm resources that may be utilized. The specific measures shall be developed by competent agriculture and forestry departments of the State Council.

Article 9 The state shall, in a planned way, conduct general survey, collect, sort out, verify, register, preserve, exchange and utilize germ plasm resources, **focus on collecting rare, endangered, unique resources and characteristic local varieties**, and on a periodical basis, issue the catalogue of available germ plasm resources that may be utilized. The specific measures shall be developed by competent agriculture and forestry departments of the State Council.

第九条 国家有计划地普查、收集、整理、鉴定、登记、保存、交流和利用种质资源，定期公布可供利用的种质资源目录。具体办法由国务院农业、林业主管部门规定。

第九条 国家有计划地普查、收集、整理、鉴定、登记、保存、交流和利用种质资源，**重点收集珍稀、濒危、特有资源和特色地方品种**，定期公布可供利用的种质资源目录。具体办法由国务院农业、林业主管部门规定。

Article 11 The state has sovereignty over germ plasm resources. Any entity or individual that plans to provide germ plasm resources to overseas or cooperates with any overseas institution or individual in conducting research to utilize germ plasm resources shall ~~file an application with the competent agriculture or forestry department of the people's government of the province, autonomous region or municipality directly under the Central Government, and submit the state benefit sharing plan; and the competent agriculture or forestry department that accepts~~

Article 11 The state has sovereignty over germ plasm resources. Any entity or individual that plans to provide germ plasm resources to overseas or cooperates with any overseas institution or individual in conducting research to utilize germ plasm resources **shall report to the competent agriculture, rural areas, forestry and grassland departments of the State Council for approval, and at the same time submit the state benefit sharing plan. The competent agriculture, rural areas, forestry and grassland departments of the State Council may entrust**

~~the application shall, upon review, submit the application and plan to the competent agriculture or forestry department of the State Council for approval.~~

第十一条 国家对种质资源享有主权，任何单位和个人向境外提供种质资源，或者与境外机构、个人开展合作研究利用种质资源的，应当向省、自治区、直辖市人民政府农业、林业主管部门提出申请，并提交国家共享惠益的方案；受理申请的农业、林业主管部门经审核，报国务院农业、林业主管部门批准。

Article 12 The state supports scientific research institutions and institutions of higher learning in centering on the research on fundamental, frontier and applied technologies for breeding, the breeding of conventional crops and main reproducing tree species, the selection and cultivation of vegetative propagation materials, and other public welfare research.

The state encourages seed enterprises to make full use of public welfare research achievements so as to cultivate good varieties with independent intellectual property rights; and encourages seed enterprises to build technical research and development platforms with scientific research institutions and institutions of higher learning, and establish

the competent agriculture, rural areas, forestry and grassland departments of the people's governments of provinces, autonomous regions, and municipalities to receive application materials. The competent agriculture, rural areas, forestry and grassland departments of the State Council shall notify the competent ecological environment department of the State Council of the approval status.

第十一条 国家对种质资源享有主权。任何单位和个人向境外提供种质资源，或者与境外机构、个人开展合作研究利用种质资源的，应当报国务院农业农村、林业草原主管部门批准，并同时提交国家共享惠益的方案。国务院农业农村、林业草原主管部门可以委托省、自治区、直辖市人民政府农业农村、林业草原主管部门接收申请材料。国务院农业农村、林业草原主管部门应当将批准情况通报国务院生态环境主管部门。

Article 12 The state supports scientific research institutions and institutions of higher learning in centering on the research on fundamental, frontier and applied technologies for breeding **as well as research on biological breeding technology, and support** the breeding of conventional crops and main reproducing tree species, the selection and cultivation of vegetative propagation materials, and other public welfare research.

The state encourages seed enterprises to make full use of public welfare research achievements so as to cultivate good varieties with independent intellectual property rights; and encourages seed enterprises to build technical research and

the seed industry technical innovation system with market as the orientation, ~~capital as the link~~, and featured by interest sharing and joint assumption of risks.

The state shall strengthen the enhancement of capability for making scientific and technological innovations in the seed industry, promote the transformation of scientific and technological achievements made in the seed industry, and protect the lawful rights and interests of technicians in the seed industry.

第十二条 国家支持科研院所及高等院校重点开展育种的基础性、前沿性和应用技术研究，以及常规作物、主要造林树种育种和无性繁殖材料选育等公益性研究。

国家鼓励种子企业充分利用公益性研究成果，培育具有自主知识产权的优良品种；鼓励种子企业与科研院所及高等院校构建技术研发平台，建立以市场为导向、~~资本为纽带~~、利益共享、风险共担的产学研相结合的种业技术创新体系。

国家加强种业科技创新能力建设，促进种业科技成果转化，维护种业科技人员的合法权益。

development platforms with scientific research institutions and institutions of higher learning, **tackle key problems on the breeding of major food crops and important cash crops**, and establish the seed industry technical innovation system with market as the orientation, and featured by interest sharing and joint assumption of risks.

The state shall strengthen the enhancement of capability for making scientific and technological innovations in the seed industry, promote the transformation of scientific and technological achievements made in the seed industry, and protect the lawful rights and interests of technicians in the seed industry.

第十二条 国家支持科研院所及高等院校重点开展育种的基础性、前沿性和应用技术研究以及**生物育种技术研究**，**支持**常规作物、主要造林树种育种和无性繁殖材料选育等公益性研究。

国家鼓励种子企业充分利用公益性研究成果，培育具有自主知识产权的优良品种；鼓励种子企业与科研院所及高等院校构建技术研发平台，**开展主要粮食作物、重要经济作物育种攻关**，建立以市场为导向、利益共享、风险共担的产学研相结合的种业技术创新体系。

国家加强种业科技创新能力建设，促进种业科技成果转化，维护种业科技人员的合法权益。

Article 28 ~~An entity or an individual~~ that has bred a variety enjoys exclusive rights to the authorized variety. No entity or individual may, without the permission of the owner of the right to new varieties of plants, produce,

Article 28 **The owner of the new plant variety right** that has bred a variety enjoys exclusive rights to the authorized variety. **The owner of the new plant variety right may license the new plant variety right to others**

propagate or sell the propagation materials of the authorized variety, or repeatedly use for commercial purpose the propagation materials of the authorized variety in the production of the propagation materials of another variety, unless as otherwise provided for by this Law or any relevant law or administrative regulation.

第二十八条 ~~完成育种的单位或者个人~~对其授权品种，享有排他的独占权。任何单位或者个人未经植物新品种权所有人许可，不得生产、繁殖或者销售该授权品种的繁殖材料，不得为商业目的将该授权品种的繁殖材料重复用于生产另一品种的繁殖材料；但是本法、有关法律、行政法规另有规定的除外。

for implementation, and collect the license fee in accordance with the contract; the license fee can be collected by a fixed price, a commission from the promotion income, etc.

No entity or individual may, without the permission of the owner of the right to new varieties of plants, produce, propagate and process for propagation, offer for sale, sell, import, export or store for implementing the above acts the propagation materials of the authorized variety, or repeatedly use for commercial purpose the propagation materials of the authorized variety in the production of the propagation materials of another variety, unless as otherwise provided for by this Law or any relevant law or administrative regulation.

The implementation of the acts specified in the preceding paragraph involving harvested materials obtained from unauthorized use of the propagation material of the authorized variety shall be approved by the owner of the new plant variety right; except in the case the owner of the new plant variety right has a reasonable opportunity to exercise its rights in the propagation material.

Where any of the acts described in the second and third paragraphs of this Article are carried out on essentially derived varieties, the consent of the owner of the new plant variety right of the original variety shall be obtained.

The implementation steps and measures of essentially derived varieties shall be determined by the State Council.

	<p>第二十八条 植物新品种权所有人对其授权品种享有排他的独占权。植物新品种权所有人可以将植物新品种权许可他人实施，并按照合同约定收取许可使用费；许可使用费可以采取固定价款、从推广收益中提成等方式收取。</p> <p>任何单位或者个人未经植物新品种权所有人许可，不得生产、繁殖和为繁殖而进行处理、许诺销售、销售、进口、出口以及为实施上述行为储存该授权品种的繁殖材料，不得为商业目的将该授权品种的繁殖材料重复用于生产另一品种的繁殖材料。本法、有关法律、行政法规另有规定的除外。</p> <p>实施前款规定的行为，涉及由未经许可使用授权品种的繁殖材料而获得的收获材料的，应当得到植物新品种权所有人的许可；但是，植物新品种权所有人对繁殖材料已有合理机会行使其权利的除外。</p> <p>对实质性派生品种实施第二款、第三款规定行为的，应当征得原始品种的植物新品种权所有人的同意。</p> <p>实质性派生品种制度的实施步骤和办法由国务院规定。</p>
<p>Article 31 The seed production and business operation license for engaging in the seed import and export business shall be subject to review by competent agriculture and forestry departments of people's governments of provinces, autonomous regions, and municipalities directly under the Central Government and be issued by competent agriculture and forestry departments of the State Council.</p>	<p>Article 31 The seed production and business operation license for engaging in the seed import and export business shall be issued by competent agriculture, rural areas, forestry and grassland departments of the State Council. The competent agriculture, rural areas, forestry and grassland departments of the State Council may entrust the competent agriculture, rural areas, forestry and grassland departments of the people's governments of provinces,</p>

The seed production and business operation licenses for seed enterprises that engage in the production and business operation of hybrid seeds and parent seeds of main crops, and ~~seeds of improved varieties of forest trees and integrate selection, cultivation, production and business operation~~ and meet the conditions prescribed by competent agriculture and forestry departments of the State Council ~~shall be subject to review by competent agriculture and forestry departments of county people's governments at the places where the producers and business operators are located,~~ and shall be issued by competent agriculture and forestry departments of people's governments of provinces, autonomous regions, and municipalities directly under the Central Government.

The licenses for the production and business operation of seeds other than those prescribed in the preceding two paragraphs shall be issued by competent agriculture and forestry departments of local people's governments at or above the county level at the places where the producers and traders are located.

Whoever only engages in the production of non-main crop seeds and non-main forest tree seeds are not required to undergo the formalities for obtaining the seed production and business operation license.

第三十一条 从事种子进出口业务种子生产经营许可证，~~由省、自治区、直辖市人民政府农业、林业主管部门审核，国务院农业、林业主管部门核发。~~

autonomous regions, and municipalities to receive application materials.

The seed production and business operation licenses for seed enterprises that engage in the production and business operation of hybrid seeds and parent seeds of main crops, **propagation material** of improved varieties of forest trees, and **the integration of selection, cultivation, production and business operation of corps that** meet the conditions prescribed by competent agriculture **and rural areas** department of the State Council shall be issued by competent agriculture, **rural areas,** forestry **and grassland** departments of people's governments of provinces, autonomous regions, and municipalities directly under the Central Government.

The licenses for the production and business operation of seeds other than those prescribed in the preceding two paragraphs shall be issued by competent agriculture, **rural areas,** forestry **and grassland** departments of local people's governments at or above the county level at the places where the producers and traders are located.

Whoever only engages in the production of non-main crop seeds and non-main forest tree seeds are not required to undergo the formalities for obtaining the seed production and business operation license.

第三十一条 从事种子进出口业务种子生产经营许可证，由国务院农业农村、林业草原主管部门核发。**国务院农业农村、林业草原**

从事主要农作物杂交种子及其亲本种子、林木良种种子的生产经营以及实行选育生产经营相结合，符合国务院农业、林业主管部门规定条件的种子企业的种子生产经营许可证，由生产经营者所在地县级人民政府农业、林业主管部门审核，省、自治区、直辖市人民政府农业、林业主管部门核发。

前两款规定以外的其他种子的生产经营许可证，由生产经营者所在地县级以上地方人民政府农业、林业主管部门核发。

只从事非主要农作物种子和非主要林木种子生产的，不需要办理种子生产经营许可证。

主管部门可以委托省、自治区、直辖市人民政府农业农村、林业草原主管部门接收申请材料。

从事主要农作物杂交种子及其亲本种子、林木良种繁殖材料生产经营的，以及符合国务院农业农村主管部门规定条件的实行选育生产经营相结合的农作物种子企业的种子生产经营许可证，由省、自治区、直辖市人民政府农业农村、林业草原主管部门核发。

前两款规定以外的其他种子的生产经营许可证，由生产经营者所在地县级以上地方人民政府农业农村、林业草原主管部门核发。

只从事非主要农作物种子和非主要林木种子生产的，不需要办理种子生产经营许可证。

Article 34 Seed production technical procedures and seed inspection and quarantine procedures shall be implemented for seed production.

第三十四条 种子生产应当执行种子生产技术规程和种子检验、检疫规程。

Article 34 Seed production technical procedures and seed inspection and quarantine procedures shall be implemented for seed production, to ensure that the seeds meet the quality requirements and quarantine requirements such as clarity, purity, and germination rate.

The competent agriculture, rural areas, forestry and grasslands departments of the people's governments at or above the county level shall guide and support seed producers and operators to adopt advanced seed production technologies, improve production techniques, and improve seed quality.

第三十四条 种子生产应当执行种子生产技术规程和种子检验、检疫规程，保证种子符合净度、纯度、发芽率等质量要求和检疫要求。

县级以上人民政府农业农村、林业草原主管部门应当指导、支持种子生产经营者采用先

	进的种子生产技术，改进生产工艺，提高种子质量。
<p>Article 39 Without the approval of the competent forestry department of the people's government of the province, autonomous region or municipality directly under the Central Government, no seeds of rare trees or forest tree seeds the purchase of which is restricted in accordance with the provisions of the people's government at the same level may be purchased.</p> <p>第三十九条 未经省、自治区、直辖市人民政府林业主管部门批准，不得收购珍贵树木种子和本级人民政府规定限制收购的林木种子。</p>	Deleted
<p>Article 53 Where, due to force majeure, seeds that are lower than the national or local standards have to be used for production, the matter shall be subject to approval by the local people's government at or above the county level at the place where the seeds are to be used; if forest tree seeds are concerned, the matter shall be subject to approval by the people's government of the province, autonomous region or municipality directly under the Central Government where the seeds are to be used.</p> <p>第五十三条 由于不可抗力原因，为生产需要必须使用低于国家或者地方规定标准的农作物种子的，应当经用种地县级以上地方人民政府批准；林木种子应当经用种地省、自治区、直辖市人民政府批准。</p>	<p>Article 52 Where, due to force majeure, seeds that are lower than the national or local standards have to be used for production, the matter shall be subject to approval by the local people's government at or above the county level at the place where the seeds are to be used.</p> <p>第五十二条 由于不可抗力原因，为生产需要必须使用低于国家或者地方规定标准的农作物种子的，应当经用种地县级以上地方人民政府批准。</p>
<p>Article 58 Whoever engages in seed import or export shall, in addition to having the seed production and business operation license, obtain the seed import or export license in accordance with the relevant provisions of the state.</p>	<p>Article 57 Whoever engages in seed import or export shall have the seed production and business operation license; among them, who engages in the import and export of crop seeds shall obtain the seed</p>

The State Council shall provide for the powers for the approval of introduction of crop and forest tree seeds from abroad, measures for the approval of import of crop ~~and forest tree~~ seeds and administrative measures for the introduction of genetically modified plant varieties.

第五十八条 从事种子进出口业务的，除具备种子生产经营许可证外，还应当依照国家有关规定取得种子进出口许可。

从境外引进农作物、林木种子的审定权限，农作物、林木种子的进口审批办法，引进转基因植物品种的管理办法，由国务院规定。

import or export license in accordance with the relevant provisions of the state.

The State Council shall provide for the powers for the approval of introduction of crop and forest tree seeds from abroad, measures for the approval of import of crop seeds and administrative measures for the introduction of genetically modified plant varieties.

第五十七条 从事种子进出口业务的，应当具备种子生产经营许可证；其中，从事农作物种子进出口业务的，还应当按照国家有关规定取得种子进出口许可。

从境外引进农作物、林木种子的审定权限，农作物种子的进口审批办法，引进转基因植物品种的管理办法，由国务院规定。

Article 64 The state shall strengthen public welfare infrastructure construction in the seed industry.

Cultivated land in the propagation bases of advanced seeds shall be included into basic farmland ~~protection zones, and be protected on a permanent basis~~. The propagation bases of advanced seeds shall be determined by the competent agriculture department of the State Council through consultation with local people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

第六十四条 国家加强种业公益性基础设施建设。

Article 63 The state shall strengthen public welfare infrastructure construction in the seed industry, and ensure reasonable demand for land for breeding and scientific research facilities.

Cultivated land in the propagation bases of advanced seeds shall be included into permanent basic farmland. The propagation bases of advanced seeds shall be determined by the competent agriculture and rural areas department of the State Council through consultation with local people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

第六十三条 国家加强种业公益性基础设施建设，保障育种科研设施用地合理需求。

对优势种子繁育基地内的耕地，划入基本农田保护区，~~实行永久保护~~。优势种子繁育基地由国务院农业主管部门商所在省、自治区、直辖市人民政府确定。

对优势种子繁育基地内的耕地，划入永久基本农田。优势种子繁育基地由国务院农业农村主管部门商所在省、自治区、直辖市人民政府确定。

Article 73 Where anyone infringes upon the right to new varieties of plants in violation of the provisions of Article 28 of this Law, the parties shall resolve the issue through consultation, and if they are unwilling to conduct consultation or consultation fails, the owner of or the party of interest to the right to new varieties of plants may request the competent agriculture or forestry department of the people's government at or above the county level to handle the matter, or may directly bring an action in the people's court.

The competent agriculture or forestry department of the people's government at or above the county level may, under the principle of voluntariness of the parties concerned, conduct mediation on the compensation for the damage caused due to the infringement upon the right to new varieties of plants. If an agreement is reached upon mediation, the parties concerned shall perform the agreement; if any party fails to perform the agreement or an agreement fails to be reached after mediation, the owner of or the party of interest to the right to new varieties of plants may bring an action in the people's court in accordance with the law.

The amount of compensation for damage caused due to the infringement upon the right to new varieties of plants shall be determined according to the actual losses suffered by the right holder from the infringement; and may

Article 72 Where anyone infringes upon the right to new varieties of plants in violation of the provisions of Article 28 of this Law, the parties shall resolve the issue through consultation, and if they are unwilling to conduct consultation or consultation fails, the owner of or the party of interest to the right to new varieties of plants may request the competent agriculture and rural areas, forestry and grassland departments of the people's government at or above the county level to handle the matter, or may directly bring an action in the people's court.

The competent agriculture and rural areas, forestry and grassland departments of the people's government at or above the county level may, under the principle of voluntariness of the parties concerned, conduct mediation on the compensation for the damage caused due to the infringement upon the right to new varieties of plants. If an agreement is reached upon mediation, the parties concerned shall perform the agreement; if any party fails to perform the agreement or an agreement fails to be reached after mediation, the owner of or the party of interest to the right to new varieties of plants may bring an action in the people's court in accordance with the law.

The amount of compensation for damage caused due to the infringement upon the right to new varieties of plants shall be

be determined based on the benefits obtained by the infringer from the infringement if it is difficult to determine the actual loss. If it is difficult to determine the loss of the right holder or the benefits obtained by the infringer, the amount of compensation may be rationally determined by referring to the multiplier of the royalty of the right to new varieties of plants. ~~The amount of compensation shall cover reasonable expenses paid by the right holder to cease the infringement.~~ If the right to new varieties of plants is infringed upon and the circumstances are serious, the amount of compensation may be determined on the basis of not less than one time but not more than ~~three~~ times the amount determined based on the aforesaid method.

Where the loss of the right holder, the benefits obtained by the infringer and the royalty of the right to new varieties of plants can not be determined, the people's court may determine a compensation of not more than ~~three~~ million yuan based on the type of the right to new varieties of plants, the nature and circumstances of the infringement, and other factors.

The competent agriculture or forestry department of the people's government at or above the county level shall, when handling a case over the infringement upon the right to new varieties of plants, order the infringer to cease the infringement, and confiscate the infringer's illegal income and seeds for the purpose of protecting public interest; and, if the value of goods is less than 50,000 yuan, impose a fine of not less than 10,000 yuan but not more than 250,000 yuan on the infringer; if

determined according to the actual losses suffered by the right holder from the infringement; and may be determined based on the benefits obtained by the infringer from the infringement if it is difficult to determine the actual loss. If it is difficult to determine the loss of the right holder or the benefits obtained by the infringer, the amount of compensation may be rationally determined by referring to the multiplier of the royalty of the right to new varieties of plants. If the right to new varieties of plants is **intentionally** infringed upon and the circumstances are serious, the amount of compensation may be determined on the basis of not less than one time but not more than **five** times the amount determined based on the aforesaid method.

Where the loss of the right holder, the benefits obtained by the infringer and the royalty of the right to new varieties of plants can not be determined, the people's court may determine a compensation of not more than **five** million yuan based on the type of the right to new varieties of plants, the nature and circumstances of the infringement, and other factors.

The amount of compensation shall cover reasonable expenses paid by the right holder to cease the infringement.

The competent agriculture and **rural areas**, forestry **and grassland** departments of the people's government at or above the county level shall, when handling a case over the infringement upon the right to new varieties of plants, order the infringer to cease the infringement, and confiscate the

the value of goods is 50,000 yuan or more, impose a fine of not less than five times but not more than ten times of the goods value on the infringer.

Where anyone counterfeits an authorized variety, the competent agriculture or forestry department of the people's government at or above the county level shall order the violator to cease the counterfeiting, and confiscate the illegal income and seeds; and, if the value of goods is less than 50,000 yuan, impose a fine of not less than 10,000 yuan but not more than 250,000 yuan on the violator; if the value of goods is 50,000 yuan or more, impose a fine of not less than five times but not more than ten times the goods value on the violator.

第七十三条 违反本法第二十八条规定，有侵犯植物新品种权行为的，由当事人协商解决，不愿协商或者协商不成的，植物新品种权所有人或者利害关系人可以请求县级以上人民政府农业、林业主管部门进行处理，也可以直接向人民法院提起诉讼。

县级以上人民政府农业、林业主管部门，根据当事人自愿的原则，对侵犯植物新品种权所造成的损害赔偿可以进行调解。调解达成协议的，当事人应当履行；当事人不履行协议或者调解未达成协议的，植物新品种权所有人或者利害关系人可以依法向人民法院提起诉讼。

侵犯植物新品种权的赔偿数额按照权利人因被侵权所受到的实际损失确定；实际损失难以确定的，可以按照侵权人因侵权所获得的利益确定。权利人的损失或者侵权人获得的利益难

infringer's illegal income and seeds for the purpose of protecting public interest; and, if the value of goods is less than 50,000 yuan, impose a fine of not less than 10,000 yuan but not more than 250,000 yuan on the infringer; if the value of goods is 50,000 yuan or more, impose a fine of not less than five times but not more than ten times of the goods value on the infringer.

Where anyone counterfeits an authorized variety, the competent agriculture and **rural areas**, forestry **and grassland** departments of the people's government at or above the county level shall order the violator to cease the counterfeiting, and confiscate the illegal income and seeds; and, if the value of goods is less than 50,000 yuan, impose a fine of not less than 10,000 yuan but not more than 250,000 yuan on the violator; if the value of goods is 50,000 yuan or more, impose a fine of not less than five times but not more than ten times the goods value on the violator.

第七十二条 违反本法第二十八条规定，有侵犯植物新品种权行为的，由当事人协商解决，不愿协商或者协商不成的，植物新品种权所有人或者利害关系人可以请求县级以上人民政府农业**农村**、林业**草原**主管部门进行处理，也可以直接向人民法院提起诉讼。

县级以上人民政府农业**农村**、林业**草原**主管部门，根据当事人自愿的原则，对侵犯植物新品种权所造成的损害赔偿可以进行调解。调解达成协议的，当事人应当履行；当事人不履行协议或者调解未达成协议的，植物新品种权所有人或者利害关系人可以依法向人民法院提起诉讼。

以确定的，可以参照该植物新品种权许可使用费的倍数合理确定。赔偿数额应当包括权利人为制止侵权行为所支付的合理开支。侵犯植物新品种权，情节严重的，可以在按照上述方法确定数额的一倍以上三倍以下确定赔偿数额。

权利人的损失、侵权人获得的利益和植物新品种权许可使用费均难以确定的，人民法院可以根据植物新品种权的类型、侵权行为的性质和情节等因素，确定给予三百万元以下的赔偿。

县级以上人民政府农业、林业主管部门处理侵犯植物新品种权案件时，为了维护社会公共利益，责令侵权人停止侵权行为，没收违法所得和种子；货值金额不足五万元的，并处一万元以上二十五万元以下罚款；货值金额五万元以上的，并处货值金额五倍以上十倍以下罚款。

假冒授权品种的，由县级以上人民政府农业、林业主管部门责令停止假冒行为，没收违法所得和种子；货值金额不足五万元的，并处一万元以上二十五万元以下罚款；货值金额五万元以上的，并处货值金额五倍以上十倍以下罚款。

侵犯植物新品种权的赔偿数额按照权利人因被侵权所受到的实际损失确定；实际损失难以确定的，可以按照侵权人因侵权所获得的利益确定。权利人的损失或者侵权人获得的利益难以确定的，可以参照该植物新品种权许可使用费的倍数合理确定。故意侵犯植物新品种权，情节严重的，可以在按照上述方法确定数额的一倍以上五倍以下确定赔偿数额。

权利人的损失、侵权人获得的利益和植物新品种权许可使用费均难以确定的，人民法院可以根据植物新品种权的类型、侵权行为的性质和情节等因素，确定给予五百万元以下的赔偿。

赔偿数额应当包括权利人为制止侵权行为所支付的合理开支。

县级以上人民政府农业农村、林业草原主管部门处理侵犯植物新品种权案件时，为了维护社会公共利益，责令侵权人停止侵权行为，没收违法所得和种子；货值金额不足五万元的，并处一万元以上二十五万元以下罚款；货值金额五万元以上的，并处货值金额五倍以上十倍以下罚款。

假冒授权品种的，由县级以上人民政府农业农村、林业草原主管部门责令停止假冒行为，没收违法所得和种子；货值金额不足五万元的，并处一万元以上二十五万元以下罚款；货值金额五万元以上的，并处货值金额五倍以上十倍以下罚款。

Article 75 Where anyone produces or trades in fake seeds in violation of the provisions of Article 49 of this Law, the competent agriculture or forestry department of the people's government at or above the county level shall order the violator to cease production or business operation, confiscate the violator's illegal income and seeds, and

Article 74 Where anyone produces or trades in fake seeds in violation of the provisions of Article 49 of this Law, the competent agriculture rural areas, forestry and grassland department of the people's government at or above the county level shall order the violator to cease production or business operation, confiscate the

revoke the violator's seed production and business operation license; and, if the value of goods involved in illegal production and business operation is less than ~~40,000~~ yuan, shall impose a fine of not less than ~~10,000~~ yuan but not more than ~~100,000~~ yuan on the violator; if the value of goods is ~~40,000~~ yuan or more, shall impose a fine of not less than ten times but not more than 20 times the amount of goods value on the violator.

Where any person is sentenced to imprisonment or is given a severer penalty due to the production or business operation of fake seeds, the legal representative and directly responsible managers of the seed enterprise or any other entity shall not serve as the legal representative or senior executive of a seed enterprise within five years as of the completion of execution of the penalty.

第七十五条 违反本法第四十九条规定，生产经营假种子的，由县级以上人民政府农业、林业主管部门责令停止生产经营，没收违法所得和种子，吊销种子生产经营许可证；违法生产经营的货值金额不足一万元的，并处一万元以上十万元以下罚款；货值金额一万元以上的，并处货值金额十倍以上二十倍以下罚款。

因生产经营假种子犯罪被判处有期徒刑以上刑罚的，种子企业或者其他单位的法定代表人、直接负责的主管人员自刑罚执行完毕之日起五年内不得担任种子企业的法定代表人、高级管理人员。

violator's illegal income and seeds, and revoke the violator's seed production and business operation license; and, if the value of goods involved in illegal production and business operation is less than 20,000 yuan, shall impose a fine of not less than 20,000 yuan but not more than 200,000 yuan on the violator; if the value of goods is 20,000 yuan or more, shall impose a fine of not less than ten times but not more than 20 times the amount of goods value on the violator.

Where any person is sentenced to imprisonment or is given a severer penalty due to the production or business operation of fake seeds, the legal representative and directly responsible managers of the seed enterprise or any other entity shall not serve as the legal representative or senior executive of a seed enterprise within five years as of the completion of execution of the penalty.

第七十四条 违反本法第四十九条规定，生产经营假种子的，由县级以上人民政府农业、林业、草原主管部门责令停止生产经营，没收违法所得和种子，吊销种子生产经营许可证；违法生产经营的货值金额不足二万元的，并处二万元以上二十万元以下罚款；货值金额二万元以上的，并处货值金额十倍以上二十倍以下罚款。

因生产经营假种子犯罪被判处有期徒刑以上刑罚的，种子企业或者其他单位的法定代表人、直接负责的主管人员自刑罚执行完毕之日起五年内不得担任种子企业的法定代表人、高级管理人员。

Article 76 Where anyone produces or trades in inferior seeds in violation of the provisions of Article 49 of this Law, the competent agriculture or forestry department of the people's government at or above the county level shall order the violator to cease production or business operation, and confiscate the violator's illegal income and seeds; and, if the value of goods involved in illegal production or business operation is less than ~~10,000~~ yuan, shall impose a fine of not less than ~~5,000~~ yuan but not more than ~~50,000~~ yuan on the violator; if the value of goods is ~~10,000~~ yuan or more, shall impose a fine of not less than five times but not more than ten times the goods value on the violator; and if the circumstances are serious, shall revoke the violator's seed production and business operation license.

第七十六条 违反本法第四十九条规定，生产经营劣种子的，由县级以上人民政府农业、林业主管部门责令停止生产经营，没收违法所得和种子；违法生产经营的货值金额不足一万元的，并处~~五千元~~以上~~五万元~~以下罚款；货值金额一万元以上的，并处货值金额五倍以上十倍以下罚款；情节严重的，吊销种子生产经营许可证。

Article 77 Where anyone commits any of the following conduct in violation of the provisions of Article 32 or 33 of this Law, the competent agriculture or forestry department of the people's government at or above the county level shall order the violator to take corrective action, and confiscate the violator's illegal income and seeds; and, if the value of goods involved in illegal production or business operation is less than 10,000 yuan, shall impose a fine of not less than 3,000 yuan but not more than 300,000 yuan on the

Article 76 Where anyone produces or trades in inferior seeds in violation of the provisions of Article 49 of this Law, the competent agriculture or forestry department of the people's government at or above the county level shall order the violator to cease production or business operation, and confiscate the violator's illegal income and seeds; and, if the value of goods involved in illegal production or business operation is less than 20,000 yuan, shall impose a fine of not less than 10,000 yuan but not more than 100,000 yuan on the violator; if the value of goods is 20,000 yuan or more, shall impose a fine of not less than five times but not more than ten times the goods value on the violator; and if the circumstances are serious, shall revoke the violator's seed production and business operation license.

第七十五条 违反本法第四十九条规定，生产经营劣种子的，由县级以上人民政府农业、林业主管部门责令停止生产经营，没收违法所得和种子；违法生产经营的货值金额不足二万元的，并处一万元以上十万元以下罚款；货值金额二万元以上的，并处货值金额五倍以上十倍以下罚款；情节严重的，吊销种子生产经营许可证。

Article 76 Where anyone commits any of the following conduct in violation of the provisions of Article 32, 33 and 34 of this Law, the competent agriculture and rural areas, forestry and grassland departments of the people's government at or above the county level shall order the violator to take corrective action, and confiscate the violator's illegal income and seeds; and, if the value of goods involved in illegal production or business operation is less than 10,000 yuan, shall impose a fine of not less than

violator; if the value of goods is 10,000 yuan or more, shall impose a fine of not less than three times but not more than five times the goods value on the violator; and may revoke the violator's seed production and business operation license.

(1) Producing or trading in seeds without obtaining the seed production and business operation license.

(2) Obtaining the seed production and business operation license by fraud, bribery or any other illegal means.

(3) Failing to produce or trade in seeds in accordance with the provisions of the seed production and business operation license.

(4) Forging, altering, trading in or leasing the seed production and business operation license.

The legal representative and directly responsible managers of the entity of which the seed production and business operation license is revoked shall not serve as the legal representative or senior executive of a seed enterprise within five years as of the completion of execution of the penalty.

3,000 yuan but not more than 300,000 yuan on the violator; if the value of goods is 10,000 yuan or more, shall impose a fine of not less than three times but not more than five times the goods value on the violator; and may revoke the violator's seed production and business operation license.

(1) Producing or trading in seeds without obtaining the seed production and business operation license.

(2) Obtaining the seed production and business operation license by fraud, bribery or any other illegal means.

(3) Failing to produce or trade in seeds in accordance with the provisions of the seed production and business operation license.

(4) Forging, altering, trading in or leasing the seed production and business operation license.

(5) No longer having the isolation and cultivation conditions for breeding seeds, or no longer having seed production sites free of quarantine pests or seed collection forests determined by the competent forestry and grassland departments of the people's governments at or above the county level, but continuing to engage in seed production.

(6) Producing seeds without implementing seed inspection and quarantine procedures.

The legal representative and directly responsible managers of the entity of which

第七十七条 违反本法第三十二条、第三十三条规定，有下列行为之一的，由县级以上人民政府农业、林业主管部门责令改正，没收违法所得和种子；违法生产经营的货值金额不足一万元的，并处三千元以上三万元以下罚款；货值金额一万元以上的，并处货值金额三倍以上五倍以下罚款；可以吊销种子生产经营许可证：

（一）未取得种子生产经营许可证生产经营种子的；

（二）以欺骗、贿赂等不正当手段取得种子生产经营许可证的；

（三）未按照种子生产经营许可证的规定生产经营种子的；

（四）伪造、变造、买卖、租借种子生产经营许可证的。

被吊销种子生产经营许可证的单位，其法定代表人、直接负责的主管人员自处罚决定作出之日起五年内不得担任种子企业的法定代表人、高级管理人员。

the seed production and business operation license is revoked shall not serve as the legal representative or senior executive of a seed enterprise within five years as of the completion of execution of the penalty.

第七十六条 违反本法第三十二条、第三十三条、**第三十四条**规定，有下列行为之一的，由县级以上人民政府农业**农村**、林业**草原**主管部门责令改正，没收违法所得和种子；违法生产经营的货值金额不足一万元的，并处三千元以上三万元以下罚款；货值金额一万元以上的，并处货值金额三倍以上五倍以下罚款；可以吊销种子生产经营许可证：

（一）未取得种子生产经营许可证生产经营种子的；

（二）以欺骗、贿赂等不正当手段取得种子生产经营许可证的；

（三）未按照种子生产经营许可证的规定生产经营种子的；

（四）伪造、变造、买卖、租借种子生产经营许可证的；

（五）不再具有繁殖种子的隔离和培育条件，或者不再具有无检疫性有害生物的种子生产地点或者县级以上人民政府林业草原主管部门确定的采种林，继续从事种子生产的；

（六）未执行种子检验、检疫规程生产种子的。

被吊销种子生产经营许可证的单位，其法定代表人、直接负责的主管人员自处罚决定作出之日起五年内不得担任种子企业的法定代表人、高级管理人员。

~~Article 84 Where anyone purchases precious tree seeds or forest tree seeds the purchase of which is restricted, in violation of the provisions of Article 39 of this Law, the competent forestry department of the people's government at or above the county level shall~~

~~Deleted~~

~~confiscate the purchased seeds, and impose a fine of not less than two times but not more than five times the value of seeds on the violator.~~

~~第八十四条 违反本法第三十九条规定，收购珍贵树木种子或者限制收购的林木种子的，由县级以上人民政府林业主管部门没收所收购的种子，并处收购种子货值金额二倍以上五倍以下罚款。~~

Article 92 For the purpose of this Law, the following terms shall have the following meanings:

(1) "Germ plasm resources" means the basic materials for breeding new varieties of plants, including the propagation materials for the cultigens and wild species of various plants as well as the hereditary materials of the various plants artificially created with the aforesaid propagation materials.

(2) "Varieties" means the plant colony that has been selected, cultivated, found, and improved by human, of which the shape and biological characteristics are uniform, and genetic characteristics are relatively stable.

(3) "Main crops" means rice, wheat, maize, cotton, and soybean.

(4) Main forest trees shall be determined and announced by the competent forestry department of the State Council; and competent forestry departments of people's governments of provinces, autonomous regions, and municipalities directly under the Central Government may determine not more than eight other main forest trees in addition

Article 90 For the purpose of this Law, the following terms shall have the following meanings:

(1) "Germ plasm resources" means the basic materials for breeding new varieties of plants, including the propagation materials for the cultigens and wild species of various plants as well as the hereditary materials of the various plants artificially created with the aforesaid propagation materials.

(2) "Varieties" means the plant colony that has been selected, cultivated, found, and improved by human, of which the shape and biological characteristics are uniform, and genetic characteristics are relatively stable.

(3) "Main crops" means rice, wheat, maize, cotton, and soybean.

(4) Main forest trees shall be determined and announced by the competent forestry **and grassland** department of the State Council; and competent forestry **and grassland** departments of people's governments of provinces, autonomous regions, and municipalities directly under the Central Government may determine not

to the ones determined by the competent forestry department of the State Council.

(5) "Improved varieties of forest trees" means approved main forest tree varieties which, in a given area, are obviously better than those of the propagation and planting materials mainly planted at the time in such aspects as output, adaptability and resistance.

(6) "Novelty" means that the seeds of a variety under application for the right to new varieties of plants have been sold or popularized by the applicant or with the applicant's consent within China for not more than one year before the date of application; the seeds of forest trees or vines have been sold or popularized for not more than six years, and the seeds of other plants have been sold or popularized for not more than four years abroad.

The seeds have novelty if seeds fall under the genera or species of plants newly included in the catalogue of plant varieties under state protection after the issuance of this Law, an application for the right to new varieties of plants is filed within one year as of the date of issuance of the catalogue, and the seeds of such a variety have been sold or popularized within China for not more than four years.

In addition to the situation that the sales or popularization conduct loses novelty, novelty shall be deemed as lost under any of the following circumstances:

(a) The factual diffusion of the variety has been confirmed by the competent agriculture or forestry department of the people's government of the province, autonomous

more than eight other main forest trees in addition to the ones determined by the competent forestry **and grassland** department of the State Council.

(5) "Improved varieties of forest trees" means approved main forest tree varieties which, in a given area, are obviously better than those of the propagation and planting materials mainly planted at the time in such aspects as output, adaptability and resistance.

(6) "Novelty" means that the seeds of a variety under application for the right to new varieties of plants have been sold or popularized by the applicant or with the applicant's consent within China for not more than one year before the date of application; the seeds of forest trees or vines have been sold or popularized for not more than six years, and the seeds of other plants have been sold or popularized for not more than four years abroad.

The seeds have novelty if seeds fall under the genera or species of plants newly included in the catalogue of plant varieties under state protection after the issuance of this Law, an application for the right to new varieties of plants is filed within one year as of the date of issuance of the catalogue, and the seeds of such a variety have been sold or popularized within China for not more than four years.

In addition to the situation that the sales or popularization conduct loses novelty, novelty shall be deemed as lost under any of the following circumstances:

region or municipality directly under the Central Government based on the seeded area.

(b) The crop variety has been approved, or no application for the right to new varieties of plants has been filed after it is registered for two years or more.

(7) "Specialty" means that one or more properties of a plant variety are significantly different from the known varieties.

(8) "Consistency" means that relevant characteristics or properties of individuals in the colony of a plant variety have the same manifestations, except expectable natural variations.

(9) "Stability" means that the main properties of a plant variety remain unchanged after repeated propagation or a specific propagation period ends.

(10) "Known varieties" means the plant varieties on which applications have been accepted or that have passed variety approval, variety registration, new variety protection, or that have been sold or popularized.

(11) "Labels" means specific designs and textual descriptions printed, pasted, fixed or attached to the surface of seeds and seed packages.

(a) The factual diffusion of the variety has been confirmed by the competent agriculture and **rural areas**, forestry **and grassland** departments of the people's government of the province, autonomous region or municipality directly under the Central Government based on the seeded area.

(b) The crop variety has been approved, or no application for the right to new varieties of plants has been filed after it is registered for two years or more.

(7) "Specialty" means that one or more properties of a plant variety are significantly different from the known varieties.

(8) "Consistency" means that relevant characteristics or properties of individuals in the colony of a plant variety have the same manifestations, except expectable natural variations.

(9) "Stability" means that the main properties of a plant variety remain unchanged after repeated propagation or a specific propagation period ends.

(10) "Essentially-derived variety" means a variety that is essentially derived from the original variety, or derived from an essentially derived variety of the original variety; it is clearly distinguishable from the original variety, and besides the different characteristics resulting from the derivation, it is identical with the original variety in the expression of essential characteristics resulting from the genotype or group of genotypes of the original variety.

第九十二条 本法下列用语的含义是：

（一）种质资源是指选育植物新品种的基础材料，包括各种植物的栽培种、野生种的繁殖材料以及利用上述繁殖材料人工创造的各种植物的遗传材料。

（二）品种是指经过人工选育或者发现并经过改良，形态特征和生物学特性一致，遗传性状相对稳定的植物群体。

（三）主要农作物是指稻、小麦、玉米、棉花、大豆。

（四）主要林木由国务院林业主管部门确定并公布；省、自治区、直辖市人民政府林业主管部门可以在国务院林业主管部门确定的主要林木之外确定其他八种以下的主要林木。

（五）林木良种是指通过审定的主要林木品种，在一定的区域内，其产量、适应性、抗性等方面明显优于当前主栽材料的繁殖材料和种植材料。

（六）新颖性是指申请植物新品种权的品种在申请日前，经申请人自行或者同意销售、推广其种子，在中国境内未超过一年；在境外，木本或者藤本植物未超过六年，其他植物未超过四年。

本法施行后新列入国家植物品种保护名录的植物的属或者种，从名录公布之日起一年内提出植物新品种权申请的，在境内销售、推广该品种种子未超过四年的，具备新颖性。

除销售、推广行为丧失新颖性外，下列情形视为已丧失新颖性：

(11) "Known varieties" means the plant varieties on which applications have been accepted or that have passed variety approval, variety registration, new variety protection, or that have been sold or popularized.

(12) "Labels" means specific designs and textual descriptions printed, pasted, fixed or attached to the surface of seeds and seed packages.

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（三）主要农作物是指稻、小麦、玉米、棉花、大豆。

（四）主要林木由国务院林业草原主管部门确定并公布；省、自治区、直辖市人民政府林业草原主管部门可以在国务院林业草原主管部门确定的主要林木之外确定其他八种以下的主要林木。

（五）林木良种是指通过审定的主要林木品种，在一定的区域内，其产量、适应性、抗性等方面明显优于当前主栽材料的繁殖材料和种植材料。

（六）新颖性是指申请植物新品种权的品种在申请日前，经申请人自行或者同意销售、推广其种子，在中国境内未超过一年；在

1. 品种经省、自治区、直辖市人民政府农业、林业主管部门依据播种面积确认已经形成事实扩散的；

2. 农作物品种已审定或者登记两年以上未申请植物新品种权的。

(七) 特异性是指一个植物品种有一个以上性状明显区别于已知品种。

(八) 一致性是指一个植物品种的特性除可预期的自然变异外，群体内个体间相关的特征或者特性表现一致。

(九) 稳定性是指一个植物品种经过反复繁殖后或者在特定繁殖周期结束时，其主要性状保持不变。

(十) 已知品种是指已受理申请或者已通过品种审定、品种登记、新品种保护，或者已经销售、推广的植物品种。

(十一) 标签是指印制、粘贴、固定或者附着在种子、种子包装物表面的特定图案及文字说明。

境外，木本或者藤本植物未超过六年，其他植物未超过四年。

本法施行后新列入国家植物品种保护名录的植物的属或者种，从名录公布之日起一年内提出植物新品种权申请的，在境内销售、推广该品种种子未超过四年的，具备新颖性。

除销售、推广行为丧失新颖性外，下列情形视为已丧失新颖性：

1. 品种经省、自治区、直辖市人民政府农业农村、林业草原主管部门依据播种面积确认已经形成事实扩散的；

2. 农作物品种已审定或者登记两年以上未申请植物新品种权的。

(七) 特异性是指一个植物品种有一个以上性状明显区别于已知品种。

(八) 一致性是指一个植物品种的特性除可预期的自然变异外，群体内个体间相关的特征或者特性表现一致。

(九) 稳定性是指一个植物品种经过反复繁殖后或者在特定繁殖周期结束时，其主要性状保持不变。

(十) 实质性派生品种是指由原始品种实质性派生，或者由该原始品种的实质性派生品种派生出来的品种，与原始品种有明显区别，并且除派生引起的性状差异外，在表达由原始品种基因型或者基因型组合产生的基本性状方面与原始品种相同。

(十一) 已知品种是指已受理申请或者已通过品种审定、品种登记、新品种保护，或者已经销售、推广的植物品种。

(十二) 标签是指印制、粘贴、固定或者附着在种子、种子包装物表面的特定图案及文字说明。

Article 93 This Law shall, by reference, apply to the management, selection and cultivation, production and business operation, management and other activities on germ plasm resources of grass seeds, cigarette seeds, traditional Chinese medicine seeds and edible fungi seeds.

第九十三条 草种、烟草种、中药材种、食用菌菌种的种质资源管理和选育、生产经营、管理等活动，参照本法执行。

Article 91 The state strengthens the protection of the germplasm resources of Chinese medicinal materials, and supports the development of scientific and technological research on the breeding of Chinese medicinal materials.

This Law shall, by reference, apply to the management, selection and cultivation, production and business operation, management and other activities on germ plasm resources of grass seeds, cigarette seeds, traditional Chinese medicine seeds and edible fungi seeds.

第九十一条 国家加强中药材种质资源保护，支持开展中药材育种科学技术研究。

草种、烟草种、中药材种、食用菌菌种的种质资源管理和选育、生产经营、管理等活动，参照本法执行。