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GAIN Report

Global Agricultural Information Network

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Canada

Agricultural Growth Act Now Law

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Report Highlights:

Canada's Agricultural Growth Act, formerly referred to as Bill C-18, received royal assent on February 25, 2015 and is now law. Among other changes, the law brings Canada's Plant Breeders' Rights Act into alignment with provisions for plant breeders' rights under UPOV 1991.

Agricultural Growth Act Now Law

Canada's Agricultural Growth Act, formerly referred to as Bill C-18, is now law, having received royal assent on February 25, 2015. The bill proposed amendments to nine acts [1], seven of which are administered by the Canadian Food Inspection Agency (CFIA) and two of which are administered by Agriculture and Agri-Food Canada. The goals of the legislative changes were to support innovation and open up international markets. The bill focused on making changes to four main areas: (1) plant breeders' rights, (2) strengthening the approval process for new products and increasing inspection powers, (3) penalties, and (4) farm debt. Of most interest to U.S. trade, and perhaps the most hotly publically debated topic, were the changes that were made to the Plant Breeders' Rights Act.

With the passage of Bill C-18 into law, the Plant Breeders' Rights Act is now harmonized to meet the intellectual property protection level of the International Convention for the Protection of New Varieties of Plants established on March 19, 1991 (abbreviated to UPOV 1991). Until very recently, plant breeders developing and selling reproductive material in Canada have had the protection afforded them under UPOV 1978 convention, which Canada ratified on February 5, 1991. Much of the public debate on this area of reform has centered on "farmers' privilege", or the right to save seed.

Section 5.3(2) of the Plant Breeders' Rights Act addresses farmers' privilege and is a new addition to the Plant Breeder's Act. It expressly allows farmers to use harvested material (seeds) from the plant varieties they grow on their own holding to propagate such plant varieties on those holdings. The government, when answering concerns about the farmer's right to save seed, stressed that the bill did not create end-point royalties (payments to seed developers upon sale). It should be noted, however, the amendments to the Plant Breeders' Rights Act has granted the government new regulatory powers to make regulations regarding royalties payments in the future without public debate (see sections 75(1.1) and 75(1.2) of the Plant Breeders' Rights Act).

In general, the majority of the farm groups and industry have expressed support for the changes that have been enacted, including the Canadian Seed Trade Association, Cereals Canada, the Alberta Wheat Commission, and the Western Barley Growers to name a few. They are hopeful that with the Plant Breeders' Rights Act now in compliance with UPOV 91, Canada will attract new investment and result in access to new crop varieties, especially in cereals.

Other changes made under the Act included the provision for licensing and regulation of fertilizer and animal feed facilities marketing interprovincially and internationally and expanding authority of the Canadian Food Inspection Agency to order re-export of feeds, fertilizers and seeds that do not meet Canadian legal requirements (authority previously existed for plants and animals and products only).

The progress of the Agricultural Growth Act through the Canadian legislative system is available at the following URL address:

<http://www.parl.gc.ca/legisinfo/BillDetails.aspx?Language=E&Mode=1&billId=6373658>

A legislative summary of the Agricultural Growth Act is available at the following URL address:

http://www.parl.gc.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?Language=E&ls=c18&Parl=41&Ses=2&source=library_prb

^[1] Plant Breeders' Rights Act, Feeds Act, Fertilizers Act, Seeds Act, Health of Animals Act, Plant Protection Act, Agriculture and Agri-Food Administrative Monetary Penalties Act, Agricultural Marketing Programs Act, Farm Debt Mediation Act

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