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How are royalties collected for FSS in Finland?

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Farm-Saved-Seed Seminar

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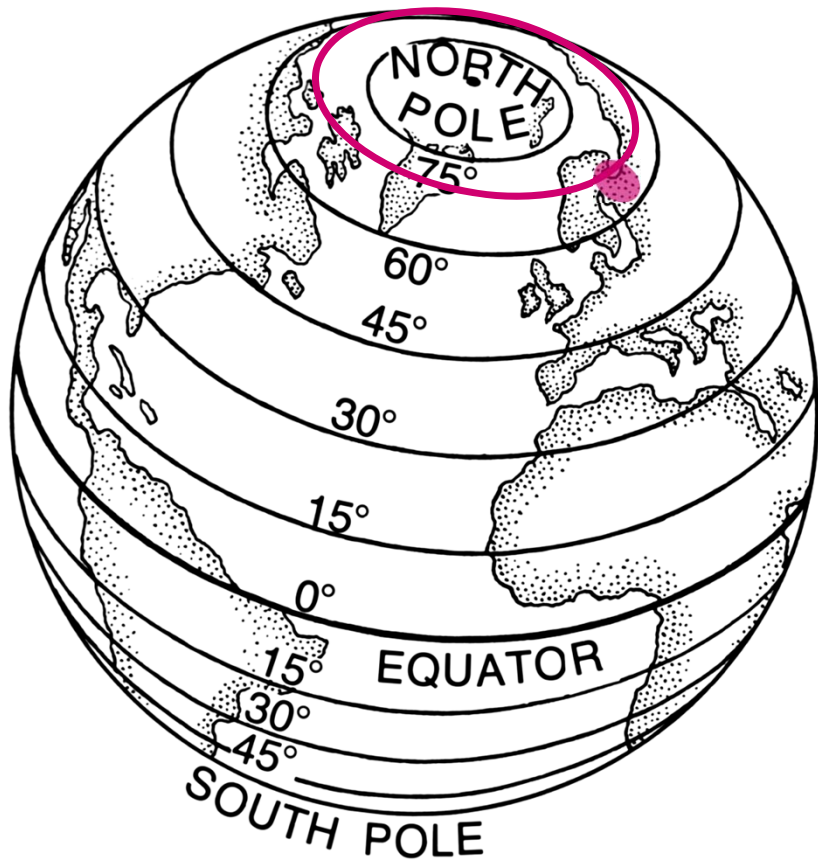
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Good reasons to secure plant breeding activities



Security of supply and latitudes!

Arctic circle



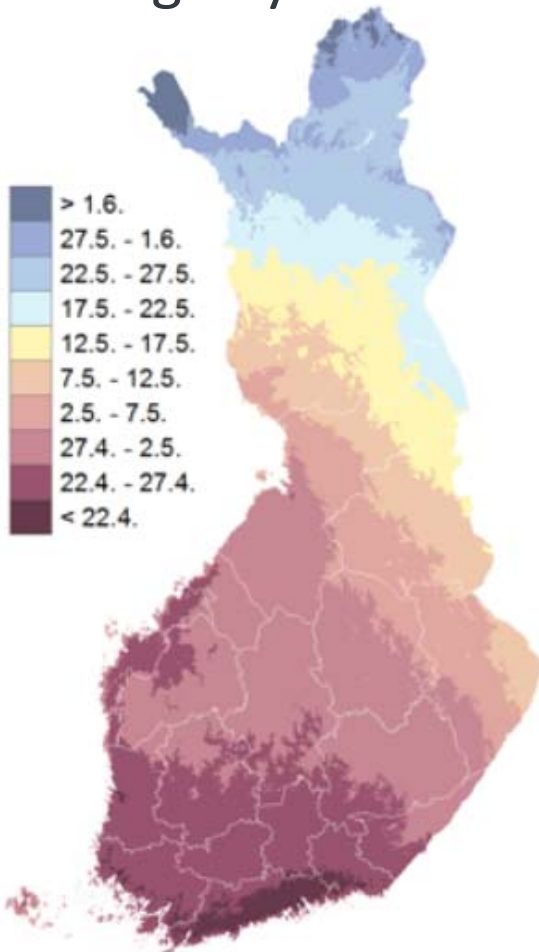
- Changing Nordic weather conditions
- Constant special day length conditions



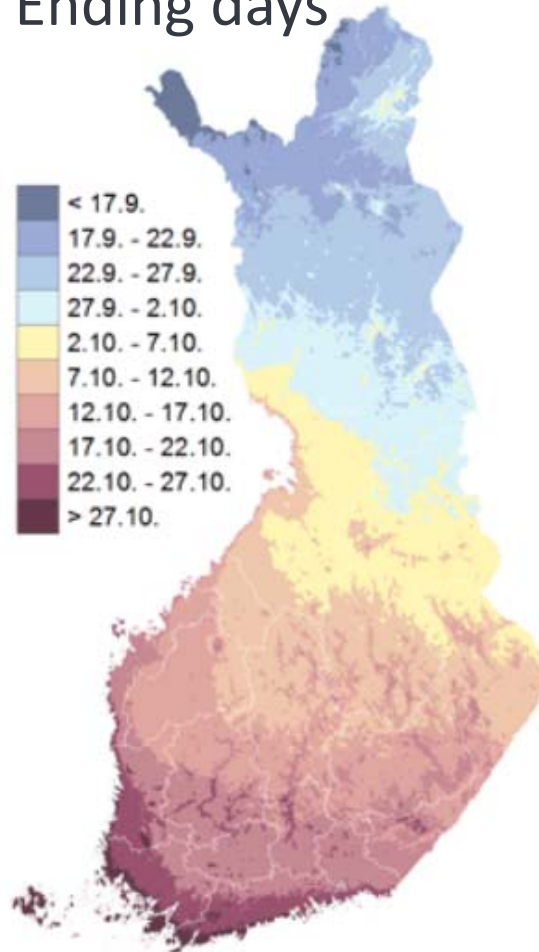
Latitudes – in sense of thermal growing season



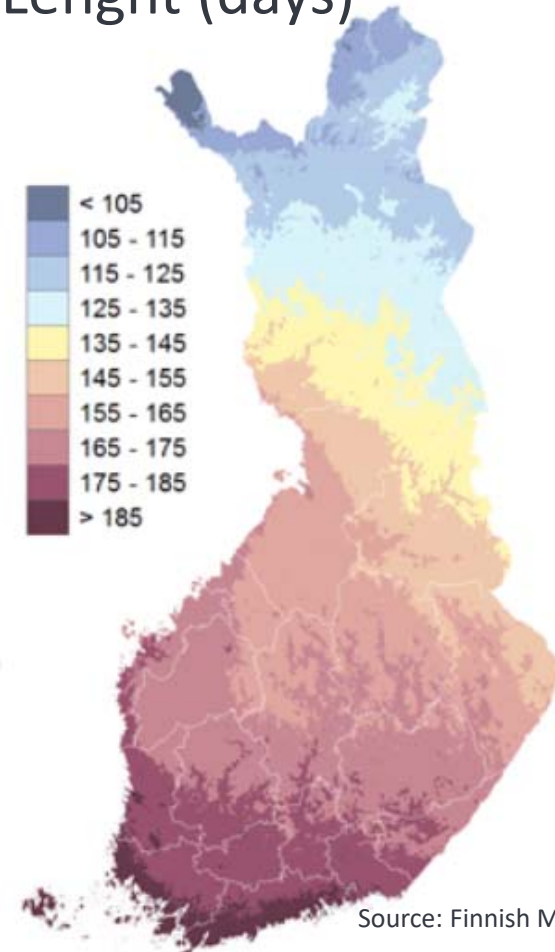
Starting days



Ending days



Length (days)



Source: Finnish Meteorological Institute



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Derogation for Farm Saved Seed in Finnish Plant Breeder's Right Act 1279/2009

English translation of Finnish Plant Breeder's Right Act



Available on internet:

https://www.finlex.fi/en/laki/kaannokset/2009/en20091279_20160724.pdf

Right to cultivate a protected variety

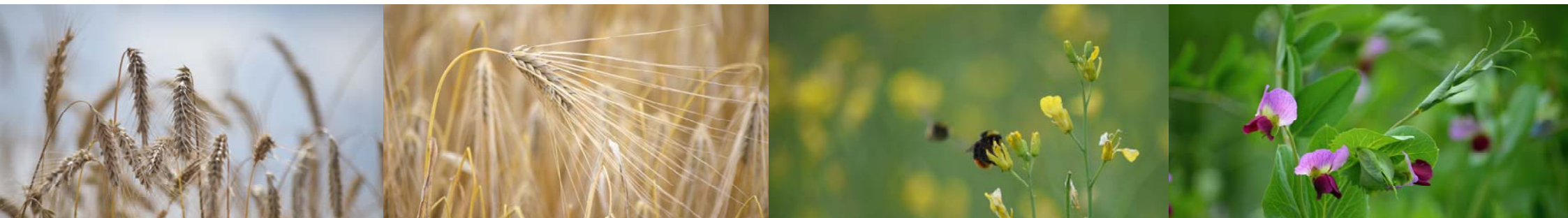


Finnish Plant Breeder's Right Act: Section 6, subsection 1

Subject to payment of remuneration, a farmer has the right to use or produce propagating material of protected varieties for propagation purposes on his or her own holding.

This right concerns, **except for hybrids**, the varieties of the following species:

- oat
- wheat
- rape seed
- field bean
- barley
- triticale
- flax
- potato
- rye
- turnip rape
- pea
- buckwheat



In practice...



...royalties for use of FSS are collected for more limited number of species than legislation permits.

- **oat**
- **barley**
- **rye**
- **wheat**
- **triticale**
- turnip rape
- rape seed
- flax
- **pea**
- **field bean**
- **potato**
- buckwheat



Obligation to pay royalties for use of FSS in case of Finnish National PBR

Finnish Plant Breeder's Right Act: Section 6, subsection 3

Farmers are obliged to pay remuneration for using FSS of protected variety when

- arable land area held by the farmer is 10 hectares or more.

However, in the case of potato cultivation, obligation for remunerations originates when cultivation area is no less than

- two hectares in open field, or
- one hectare under covering,

Even the arable land area held by the farmer is less than 10 ha.



Obligation to pay royalties for use of FSS in case of European Community PBR



Farmers are obliged to pay remuneration for using FSS of variety protected by a plant variety right of the European Community when their **cultivation area exceeds**

- **the calculated area needed for the production of 92 tonnes of cereal or**
- **7 hectares in the case of potato cultivation**



Variety owner's right for information

Finnish Plant Breeder's Right Act: Section 7, subsection 1



For the enforcement of the payment obligation laid down in section 6, the plant breeder's right holder is entitled to access the following information from the information system referred to in the Act of the Information System of the Rural Business Authorities (284/2008):

...



Variety owner's right for information



Finnish Plant Breeder's Right Act: Section 7, subsection 2, points 1–3

...the following information...

- 1) Name and contact** information of the farmer;
- 2) Code** of the holding;
- 3) Arable land area** held by the farmer if this is more
 - than two hectares in the case of a protected potato variety,
 - one hectare in the case of early potato cultivated under covering,
 - and 10 hectares in the case of other varieties;



Variety owner's right for information

Finnish Plant Breeder's Right Act: Section 7, subsection 2, points 4–5



...the following information...

4) Cultivation area of varieties protected by

a plant variety right of the European Community (2100/94)

if this exceeds

- the calculated area needed for the production of 92 tonnes of cereal
- 7 hectares of potato

5) Cultivation areas by variety sown with seed of varieties protected under this Act produced on farmer's own holding.





Farmers obligation to provide information

Finnish Plant Breeder's Right Act: Section 6, subsection 4

- A farmer is obliged to provide, upon request, the authority and the plant breeder's right holder with the necessary information for establishing the payment obligation.

Confidentiality and destruction of the information



Finnish Plant Breeder's Right Act: Section 7, subsection 3



A plant breeder's right holder may use information disclosed under subsection 1

- **only for the enforcement of the right to receive payment** referred to in section 6.
- **The plant breeder's right holder is not entitled to disclose the information to another party.**

Finnish Plant Breeder's Right Act: Section 8

A plant breeder's right holder **shall destroy the information within one year** from the end of the calendar year concerned in the enforcement of the payment obligation.



Setting the level of royalties for use of FSS

Finnish Plant Breeder's Right Act: Section 6, subsection 2

A contract may be concluded between

- the plant breeder's right holder and the farmer **or**
- between organisations representing them

on a reasonable amount of remuneration payable to the plant breeder's right holder.



In practice agreement of remuneration is negotiated between
Farmers Union and **Finnish Seed Trade Association (FSTA)**

Agreement on level of remuneration is also a condition for the disclosure of information concerning FSS use.

Setting the level of royalties for use of FSS in the case no agreement exist



Finnish Plant Breeder's Right Act: Section 6, subsection 2

When there is no existing agreement the farmer has the obligation to pay to the plant breeder's right holder a remuneration of 50 per cent of the royalty fee.

In practice the Farmers Union and Finnish Seed Trade Association (FSTA) have had existing agreement from the very beginning

