

**Council for Trade-Related Aspects of  
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY  
LAWS AND REGULATIONS NOTIFIED UNDER  
ARTICLE 63.2 OF THE AGREEMENT**

LITHUANIA

The present document reproduces the text<sup>1</sup> of the Law on the Protection of Plant Varieties No. IX-618 (adopted on 22 November 2001 and entered into force on 1 April 2002), which repeals and replaces the Law on the Protection of Plant Varieties and Seed Cultivation (1996:I-1518), distributed in document IP/N/1/LTU/P/2, as notified by Lithuania under Article 63.2 of the Agreement, by a communication from its Permanent Mission dated 2 July 2002.

**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA  
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

LITUANIE

Le présent document contient le texte<sup>1</sup> de la Loi sur la protection des variétés végétales n° IX-618 (adoptée le 27 novembre 2001 et entrée en vigueur le 1<sup>er</sup> avril 2002), qui annule et remplace la Loi sur la protection des obtentions végétales et la culture des semences (1996:I-1518) distribuée dans le document IP/N/1/LTU/P/2, notifié par la Lituanie au titre de l'article 63:2 de l'Accord par une communication de sa Mission permanente datée du 2 juillet 2002.

**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELLECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

LITUANIA

En el presente documento se reproduce el texto<sup>1</sup> de la Ley de protección de las obtenciones vegetales N° IX-618 (adoptada el 22 de noviembre de 2001 y entrada en vigor el 1° de abril de 2002) que deroga y sustituye la Ley de protección de las obtenciones vegetales y producción de semillas N° I-1518 de 1996, distribuida en el documento IP/N/1/LTU/P/2, que Lituania ha notificado de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo, por una comunicación de su Misión Permanente con fecha 2 de julio de 2002.

<sup>1</sup> In English only./En anglais seulement./En inglés solamente.

**REPUBLIC OF LITHUANIA**  
**LAW ON THE PROTECTION OF PLANT VARIETIES**

November 22, 2001. No. IX - 618  
Vilnius

**CHAPTER ONE**  
**GENERAL PROVISIONS**

**Article 1. Purpose of the Law**

1. The Law shall regulate the relations of natural and legal persons relating to legal protection and use of varieties of plants.
2. The Law shall apply to the varieties of plant genera and species, included on the list approved by the Minister of Agriculture.

**Article 2. Basic Definitions of Law**

1. “**Plant material**” means entire plants or parts of plants.
2. “**Plant genus**” means a taxonomic group uniting closely related plant species possessing a common ancestor.
3. “**Plant species**” means a grouping of related organisms constituting a systematic unit, occupying a certain permanent and relatively constant place in nature and fulfilling its functions in the universal biological metabolism in the manner specific only for the grouping.
4. “**Plant variety (hereinafter - variety)**” means a plant within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder’s right are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, can be distinguished from any other plant grouping by the expression of at least one of the said characteristics, and can be considered as a unit with regard to its suitability for being propagated unchanged.
5. “**List of plant genera and species**” means the list approved by the Ministry of Agriculture, which includes the plant genera and species, to the varieties whereof this Law applies.
6. “**Botanical taxon**” means any taxonomic group of plants (class, rank, family, genus, species, subspecies, variety, form).

7. “**Propagating material**” means plants or parts thereof used for reproduction and propagation of plants of the same variety.

8. “**Genotype**” means the basis of heredity of organisms.

9. “**Licence contract**” means a written agreement drawn up between the selector and a natural or legal person, granting that person the right to propagate and disseminate the propagating material of the variety whereof legal protection shall be applied.

10. “**Licence fee**” means the fee payable under the licence contract.

11. “**Application**” means the set of documents submitted to the Register of the Protected Varieties Administrator of the protected varieties of plants in the Republic of Lithuania, required for the grant of a breeder’s right of a variety.

12. “**Breeder**” means:

1) one or several natural persons who bred, discovered or developed a new plant variety;

2) a legal person who is the employer of the aforementioned one or several natural persons who, working under employment contract or fulfilling the assigned task, have bred, discovered or developed a new plant variety;

3) a person who, who has acquired the property rights to the variety from the persons indicated in subparagraphs items 1 or 2 of this paragraph;

13. “**Selection fee**” means the fee payable to the breeder of the variety for the propagating material of the protected variety produced from plants grown, on one’s own holding, and used for further reproduction or multiplication purposes on one’s own holding

14. “**Protected variety of significance for the national economy**” means the variety required for guaranteeing supply to the market of propagating material possessing certain characteristics.

15. “**Universally known variety**” means a variety, which becomes universally known from the day of being submitted in an application to obtain grant of a breeder’s right of the variety or inclusion of the variety in the official list of varieties in any state, if this application created the opportunity for this variety to obtain grant of a breeder’s right or be included in the official list of varieties.

### **Article 3. Conditions for the Grant of the Breeder’s Right**

The breeder’s right shall be granted upon establishing that the variety satisfies the criteria of novelty, distinctness, uniformity and stability and has been designated by a denomination in accordance with the provisions of Article 18 of this Law.

#### **Article 4. Novelty**

1. The variety shall be deemed to be new if, at the date of filing of the application, propagating or plant material of the variety has not been sold or otherwise disposed of to others, by the initiative or with the consent of the breeder:

- 1) in the Republic of Lithuania earlier than one year before the above-mentioned date;
- 2) in the territory of another state earlier than four years or, in the case of trees, vines or of berry shrubs earlier than six years before the said date.

2. The requirement for novelty shall be deemed not to have been violated in the sale or other transferring of the right of management of the propagating or plant material to other persons if :

- 1) damage has been caused to the breeder or the heir to his rights;
- 2) the rights of the breeder have been transferred according to contract;
- 3) a natural or legal person on the basis of a contractual relationship reproduces propagating material of a corresponding variety in the breeder's name, on condition that the breeder shall not lose his right of ownership to the propagating material and that the propagating material shall not be used in the production of propagating material of another variety;
- 4) this is provided for in a contractual agreement, according to which a natural or legal person shall conduct field tests or laboratory experiments in order to assess the qualities of the variety;
- 5) this has been done in implementing the laws or administrative obligations, particularly those in relation to biological safety or inclusion of the variety in the list of plant varieties protected in the Republic of Lithuania;
- 6) in creating the variety or implementing the operations indicated in sub-paragraphs 3 -5 of this paragraph, plant material of the variety obtained as a by- product or surplus product shall be sold or otherwise transferred without indicating the variety.

#### **Article 5. Distinctness**

1. The variety shall be deemed to be distinct if it is clearly distinguishable by reference to the expression of at least one of its characteristics from any other variety whose existence is a matter of common knowledge at the time of the filing of the application.

2. Any other variety shall be deemed to be a matter of common knowledge if on the date of filing of the application for provision of legal protection to the variety or to enter the variety in an official register

The existence of a variety particular be deemed in any other state or intergovernmental organisation the variety was entered in an official register.

**Article 6. Uniformity**

The variety shall be deemed to be uniform if, subject to the variations that may be expected from the particular features of its propagation, the plants of the variety are sufficiently uniform in their relevant characteristics.

**Article 7. Stability**

A variety shall be deemed to be stable if its relevant characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.

**Article 8. Register of Varieties of Plants Protected in the Republic of Lithuania**

1. The Register of Varieties of Plants Protected in the Republic of Lithuania (hereinafter - the Register of Protected Varieties) is the principal document for recording varieties of plants, having legal protection in Lithuania.

2. The Register of Protected Varieties shall be comprised and administered by the Register of Protected Varieties Administrator - the institution authorised by Ministry of Agriculture.

**CHAPTER TWO**

**APPLICATION FOR THE GRANT OF BREEDER'S RIGHT**

**Article 9. Filing of the Application**

1. The breeder or the person authorised by him (hereinafter - the applicant) who wishes to receive the grant of a breeder's right for the variety bred or discovered or developed by him, shall file with the Register of Protected Varieties Administrator an application for the grant of the breeder's right for the variety.

2. The application shall consist of a request for the grant of the breeder's right and other documents, the list, form and filing procedure whereof shall be established by the Register of Protected Varieties Administrator.

3. A separate application shall be filed with respect to every variety. The request for the grant of the breeder's right shall be filed in the Lithuanian or another language prescribed by the Register of Protected Varieties Administrator. Other documents of the application shall be filed in the state language or in the language prescribed by the Register of Protected Varieties Administrator. In this case, an official translation thereof shall be submitted in the Lithuanian Language.

4. Where the variety has been bred, discovered or developed by several natural or legal persons, one application shall be filed indicating therein the share of ownership of each one of them.

Foreign state natural or legal persons shall file the applications through their authorised representative in the Republic of Lithuania.

5. Filing of the application with a state Member of the International Union for the Protection of New Varieties of Plants or in a Member State of the European Union, shall not restrict the applicant's right to file an application to the Register of Protected Varieties Administrator without waiting for reply concerning the grant of a breeder's right to him.

6. The date when the Register of Protected Varieties Administrator received and registered an application for the grant of a breeder's right which meets the requirements indicated in Paragraph 2, shall be deemed to be the date of filing of the application.

#### **Article 10. Right of Priority**

1. The priority of an application shall be determined by the date of filing of the application.

2. An applicant shall have the right to file the first application with a competent institution of any member state of the Member of the International Union for the Protection of New Varieties of Plants or in a Member State of the European Union. If, prior to filing an application with the Register of Protected Varieties Administrator in Lithuania, the applicant has already filed an application for the grant of the breeder's right in a Member of the International Union for the Protection of New Varieties of Plants or in a Member State of the European Union, at the applicant's request the right of priority of the application may be determined by the date of filing of the first application. In this case the application must be filed with the Register of Protected Varieties Administrator within 12 months from the date of filing of the first application. The day of the filing of the application shall not enter into this time frame.

3. In order to benefit from the right of priority of the first application in the case referred to in paragraph 2 of this Article, the applicant shall, within a period of not less than three months from the filing date of the subsequent application furnish with the Register of Protected Varieties Administrator a copy of the first application, certified to be a true copy by the foreign state competent institution with which that application was filed. The Register of Protected Varieties Administrator may request the applicant to furnish additional documents or other evidence that the variety, which is the subject matter of both applications, is the same.

4. The breeder shall be granted the right for a period of two years after the expiration of the period of priority specified in paragraph 2 of this Article or, where the first application is rejected or withdrawn, in which to furnish, according to the procedure laid down in this Law, to the Register of Protected Varieties Administrator with which he has filed the subsequent application, any necessary documents or material required for the purpose of the examination under Articles 11, 12, and 13 of this Law.

5. Events, occurring within the period provided for in paragraph 2 of this Article, such as the filing of another application or the publication or use of the new variety that is the subject of the first application, shall not constitute a ground for the Register of Protected Varieties Administrator for rejecting the subsequent application. Such events shall also not give rise to any third-party right.

6. After the breeder has, in accordance with the procedure established in Article 36 of this Law, filed an appeal against an applicant who did not have a breeder's right and the Register of Protected Varieties Administrator has taken a decision to refuse granting a breeder's right on the basis thereof, the breeder shall have the right to request the date of the refused application be deemed to be the date of filing of his application. In this case, the breeder must file the application with the Register of Protected Varieties Administrator within one month from the date of taking of the decision to refuse the grant of the breeder's right.

### **CHAPTER THREE**

#### **EXAMINATION OF THE APPLICATION AND TECHNICAL EXAMINATION OF THE VARIETY**

#### **Article 11. Preliminary Examination of the Application**

1. The Register of Protected Varieties Administrator shall carry out preliminary examination of the application within one month from the date of filing of the application. In the course of the examination priority of the application shall be determined, fullness of the set of documents filed and their compliance with the requirements set by the Register of Protected Varieties Administrator shall be assessed.

2. Having determined within the period of one month that the submitted documents do not comply with the prescribed requirements, the Register of Protected Varieties Administrator shall notify the applicant thereof in writing. If the stipulated deficiencies are corrected within the time limit indicated by the Register of Protected Varieties Administrator, the application shall be deemed to have been filed on the day wherein the Register of Protected Varieties Administrator received the application for grant of breeder's right. Should the shortcomings fail to be corrected, the application shall be deemed not filed and the applicant shall be informed thereof in writing.

3. If the application and the filed documents comply with the prescribed requirements, the Register of Protected Varieties Administrator shall notify the applicant thereof in writing.

### **Article 12. Substantive Examination of the Application**

1. The Register of Protected Varieties Administrator shall carry out substantive examination of the application within the period prescribed by the Register of Protected Varieties Administrator, which is counted from the day of filing of the application.

2. It shall be established in the course of substantive examination whether the variety indicated in the application for the grant of a breeder's right is new, whether the applicant is entitled to file this application and whether the proposed variety denomination is suitable pursuant to Article 18 of this Law.

3. Having established that the plant variety does not comply with the requirements set in paragraph 2 of this Article, the Register of Protected Varieties Administrator shall notify the applicant thereof in writing. Should the applicant fail to correct the deficiencies that might have been identified, the Register of Protected Varieties Administrator shall take a decision to reject the application and shall notify the applicant thereof in writing.

### **Article 13. Technical Examination of the Variety**

1. After the preliminary and substantive examinations of the application have been carried out, technical examination of the variety shall be performed. It shall be determined through experiments whether the variety complies with the requirements of distinctness, uniformity and stability.

2. Upon the decision of the Register of Protected Varieties Administrator, the technical examination of the variety shall also be deemed to have been completed if the distinctness, uniformity and stability of the variety have been assessed and recognised by the competent institution of any foreign state and the applicant has furnished all documents confirming the fact and the consent of the institution for the use of the data of technical examination carried out by it.

### **Article 14. Arrangement of the Technical Examination of a Variety and Examination Results**

1. Responsibility for the technical examination of a variety shall rest with the Register of Protected Varieties Administrator. The Register of Protected Varieties Administrator may conduct technical examination of the variety on his own or avail himself of the services of competent institutions of foreign states.

2. The applicant shall pay the Register of Protected Varieties Administrator a fee charged by him for the conduct of the technical examination.

3. If the results of the technical examination of the variety comply with the requirements of distinctness, uniformity and stability, set by this Law, the variety corresponds to the botanical taxon



and the applicant has paid the fee for the technical examination of the variety according to the procedure laid down in paragraph 2 of this Article, the Register of Protected Varieties Administrator shall produce the official description of the variety and take a reference sample of the propagating material of the variety for safekeeping.

4. Having established that the variety does not comply with the requirements specified in paragraph 3 of this Article and/or the applicant has not paid the fee charged for the technical examination of the variety, the Register of Protected Varieties Administrator shall take a decision to reject the application and shall notify the applicant thereof in writing.

5. The Register of Protected Varieties Administrator shall keep the documents relating to the examination of the application and the technical examination of the variety for the entire period of validity of the breeder's right.

#### **Article 15. Provisional Protection**

The breeder's interests shall also be protected during the period from the day of the filing of the application for the grant of the breeder's right, until the variety shall be granted provisional protection. During the period the variety was granted provisional protection, the breeder shall be entitled to file a damage claim against the person who infringed his rights, as specified in Article 26 of this Law.

#### **Article 16. Publication of Information**

The Register of Protected Varieties Administrator shall publish information relating to:

- 1) received, withdrawn and rejected applications;
- 2) variety denominations proposed in the applications;
- 3) varieties afforded protection under the breeder's right, their breeders and/or authorised representatives of the breeders;
- 4) varieties afforded provisional protection;
- 5) change of the breeders and/or their authorised representatives;
- 6) decisions to declare a breeder's right null and void, to cancel or to extend a breeder's right;
- 7) other information specified by the Register of Protected Varieties Administrator.

### **CHAPTER FOUR VARIETY DENOMINATION**

#### **Article 17. Variety Denomination**

1. A new variety shall be given a denomination in accordance with its genus. The denomination shall be indicated in the application filed by an applicant.

2. After the variety has been entered in the Register of Protected Varieties, it must in all cases be referred to by the designated denomination. This same denomination must be used also after the expiration of the breeder's right in that variety.

#### **Article 18. Characteristics of the Denomination**

1. The denomination of a variety must enable the variety to be identified. It may not consist solely of figures except where this is an established practice for designating varieties. The denomination must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeders. It must be different from every denomination which designates, in the territory of the Republic of Lithuania or any other member state of the Union of Protection of Plant Varieties, an existing variety of the same plant species or of a closely related species.

2. Rights that have been previously acquired by other persons must not be infringed upon. The new variety must not be given the denomination of a variety whose right of ownership term has expired.

3. The denomination must comply with the norms of the state language.

#### **Article 19. Changing the Denomination of a Variety**

The denomination of a variety may be changed at the breeder's request or on the court decision.

### **CHAPTER FIVE**

## **GRANT OF THE BREEDER'S RIGHT, DURATION AND CANCELLATION OF THE BREEDER'S RIGHT**

#### **Article 20. Entry into Force of the Breeder's Right**

1. Upon establishing that the plant variety satisfies the conditions for legal protection laid down in Article 3 of this Law, the Register of Protected Varieties Administrator shall take a decision to enter the variety in the Register of Protected Varieties under the proposed denomination and shall inform the applicant thereof in writing. The denomination of the variety, the breeder thereof, the variety description, duration of the breeder's right shall be specified in the decision.

2. Having entered the variety in the Register of Protected Varieties, the breeder shall be issued a certificate of the breeder's right. The Register of Protected Varieties Administrator shall determine the form of the certificate.

3. The breeder's right in the variety shall be granted at the same day as the denomination of the variety is entered in the Register.

#### **Article 21. Refusal to Grant the Breeder's Right**

Where the variety does not satisfy the requirements set by this Law, the Register of Protected Varieties Administrator shall take a decision to refuse entering the variety in the Protected Varieties Register and shall notify the applicant thereof in writing.

#### **Article 22. Duration of the Breeder's Right**

1. The breeder's right shall be granted for a period of 25 years, whereas for potatoes, trees and vines the said period shall be 30 years from the date of entry thereof in the Register of Protected Varieties.

2. The Register of Protected Varieties Administrator shall have the right to extend the duration of the breeder's right upon the request of the breeder or his authorised representative, but for not longer than five years. The duration of the breeder's right shall be extended if the breeder or his authorised representative files with the Register of Protected Varieties Administrator a written request for the extension of duration of the breeder's right before the expiry thereof.

3. The breeder's right shall lapse before the expiry of the time periods set in this Article if the breeder surrenders it in writing to the Register of Protected Varieties Administrator. The date of expiry of the breeder's right may be indicated in the breeder's application. Where there is no indication of the date, the surrender shall be with effect from the day following the day of receipt of the application.

#### **Article 23. Declaring the Breeder's Right Null and Void**

1. The breeder's right shall be declared null and void from the day of entry of the variety in the Register:

1) when it is established that at the time of the grant of the breeder's right the variety did not comply with the requirements of novelty or distinctness;

2) if the breeder's right has been based upon information and documents furnished by the breeder only, but at the moment of the grant of the breeder's right the variety did not comply with the requirements of uniformity or stability under the provisions of Articles 6 and 7 of this Law.

3) when it is established that the breeder's right has been granted to a person, who did not have a right to it.

2. Having established the reasons referred to in paragraph 1 of this Article, the Register of Protected Varieties Administrator shall take a decision to declare the breeder's right in the variety null and void and notify the breeder thereof in writing.

#### **Article 24. Cancellation of the Breeder's Right**

1. The breeder's right shall be cancelled if:

1) the Register of Protected Varieties Administrator establishes that the conditions of uniformity and stability laid down in Articles 6 and 7 of this Law are not fulfilled;

2) the breeder has not provided the Register of Protected Varieties Administrator at the latter's request with the information, documents or other material necessary for verifying the maintenance of the variety;

3) where the Register Administrator establishes that the denomination no longer complies with the requirements of this Law, the breeder does not propose another suitable denomination;

4) the breeder fails to pay such state fees as may be payable to keep his right in force.

2. The Register of Protected Varieties Administrator must notify the breeder in writing that his right may be cancelled for reasons specified in paragraph 1 of this Article and set the time limit for eliminating the reasons.

3. If the breeder fails to eliminate the reasons within the time limit, specified in Paragraph 2 of this Article the Register of Protected Varieties Administrator shall take a decision to cancel the breeder's right and inform the breeder thereof in writing.

4. The breeder shall forfeit his right to perform the acts provided for in Article 26 of this Law as from the day of cancellation of the breeder's right.

#### **Article 25. State Fees**

State fees shall be payable for services provided by the Register of Protected Varieties Administrator according to the procedure laid down by the Government.

### **CHAPTER SIX RIGHTS AND OBLIGATIONS OF THE BREEDER**

#### **Article 26. Rights of Breeder**

1. The breeder, invoking the provisions of Articles 28 and 29 of this Law, shall have the right to authorise the performance of the following acts with respect to the propagating material of the protected variety:

1) production and reproduction;

- 2) conditioning for the purpose of propagation;
- 3) offering for sale;
- 4) selling or other marketing;
- 5) exporting;
- 6) importing;
- 7) stocking for any of the purposes mentioned subparagraphs 1 to 6 of this paragraph.

2. Persons who are using the variety under a licence contract must notify the breeder of the reproduced sold or in other way marketed propagating material, unless the licence contract provides otherwise.

3. In using plant material, and having used obtained propagating material without a licence contract, it is necessary to obtain the authorisation of the breeder except in a case where the breeder had a reasonable opportunity to implement his rights in connection with this propagating material.

**Article 27. Application of Breeder's Rights to Essentially Derived Varieties and Certain other Varieties**

1. The provisions of Article 26 of this Law shall also apply in relation to:

- 1) varieties which are essentially derived from the initial protected variety if this protected variety itself is not an essentially derived variety;
- 2) varieties which are not clearly distinguishable in accordance with paragraph 1 of Article 5 of this Law, from the protected variety;
- 3) varieties whose production requires only the repeated use of the protected variety.

2. A variety shall be deemed to be essentially derived from another variety, hereinafter referred to as the initial variety, when:

1) it is predominantly derived from the initial variety, or from a variety that is itself predominantly derived from the initial variety, preserving the characteristics of the initial variety, which are the result of this variety's genotype or combination of genotypes;

2) it is clearly distinguishable from the initial variety but it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety, except for the differences which result from the act of derivation of this variety.

3. Essentially derived varieties may be obtained by the selection of a natural or induced mutant, or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering.

### **Article 28. Exceptions to the Breeder's Right**

1. A variety may be used without the breeder's authorisation if:

- 1) the acts are done privately and for non-commercial purposes;
- 2) the acts done for scientific purposes;

3) for the purposes of breeding other varieties and acts to be carried out with these varieties as specified in Article 26 of this Law, except in cases when the provisions of Article 27 of this Law are to be applied.

2. Farmers and other land users may use the protected variety without the breeder's authorisation when:

1) they use, the propagating material from the harvest of a protected variety, raised on their farm or on holdings used by them for their farm needs;

2) they pay the selection fee to the breeder. The amount of the fee and the procedure of payment thereof shall be established by mutual agreement between the breeder or his authorised representative and the farmer or other land user. In the absence of such an agreement, the fee shall amount to at least 50% of the average licence fee which would be payable in Lithuania for the lowest category propagating material of the same plant species, subject to certification.

3. The provisions of paragraph 2 of this Article shall apply to farmers and other land users only in cases:

1) if they are growing on their own holdings or plots of land they are using plants of the following species: oats, barley, rye, spelt wheat and durum wheat, triticale, rape, linseed (with the exclusion of flax), peas, beans, vetch, lupine, lucerne, potatoes;

2) if they use for further propagating purposes on their holdings, the product of the harvest which they have obtained by planting on their own holdings or plots of land they are using, propagating material of a variety of the genera mentioned in subparagraph 1 of this paragraph (other than a hybrid or synthetic variety) protected in Lithuania;

4. The farmers and other land users may not fail to pay the fee stipulated in subparagraph 2 of part 2 of this Article if their own holding or plot of the land used is not larger than the area prescribed by the Minister of Agriculture.

5. Farmers and other land users who are propagating and marketing the certified propagating material of protected varieties must, at the breeders' request, submit to them data relating to the use of propagating material of the protected variety.

### **Article 29. Exhaustion of the Breeder's Right**

The breeder's right shall not extend to acts concerning any propagating or plant material of the protected variety, or of a variety covered by the provisions of Article 27,

which has been sold or otherwise marketed by the breeder or with his consent in the territory of the state which is a member of the International Union for the Protection of New Varieties of Plants, or any material derived from the said material, unless such acts:

- 1) involve further production of the propagating and plant material of the variety in question;
- 2) involve an export of the propagating and plant material of the variety into a country which does not protect varieties of the plant genus or species to which the variety belongs, except where the exported plant material is for final consumption purposes.

#### **Article 30. Assignment of the Breeder's Rights**

1. Natural and legal persons who have acquired the property right to a variety, must submit to the Register of Protected Varieties Administrator documents confirming the fact.

2. The Register of Protected Varieties Administrator shall examine the received documents and register the new breeder within one month from the receipt of the application.

#### **Article 31. The Breeder's Obligations**

1. Upon the request of the Register of Protected Varieties Administrator the breeder shall submit samples of propagating material of the protected variety for renewing the reference sample or for checking the conformity and other characteristics of the propagated variety.

### **CHAPTER SEVEN LICENCE CONTRACTS**

#### **Article 32. Conclusion of Licence Contracts**

1. The breeder of a protected variety (licenser) may authorise another person (licensee) to perform the acts specified in Article 26 of this Law. A licence contract shall be concluded.

2. The licensee may not assign the rights to perform the acts specified in Article 26 to a third person, unless the licence contract provides otherwise.

3. Having concluded the licence contract, the holder of the breeder's right shall submit it to the Register or Protected Varieties Administrator for registering.

#### **Article 33. Types of Licence Contracts**

1. The breeder shall have the right to conclude:

- 1) an exclusive licence contract;
- 2) a regular licence contract.

2. The conclusion of an exclusive licence contract shall restrict the breeder's right to use the variety in the sphere in which the rights have been transferred to the licensee.

3. The conclusion of a regular licence contract shall not restrict the breeder's rights provided for by this Law.

#### **Article 34. Requirements of Licence Contracts**

A licence contract shall be concluded in writing. The following shall be specified in the licence contract:

- 1) the requisites of the parties to the contract;
- 2) the denomination of the plant species and variety;
- 3) purposes, ways or methods of use of the variety;
- 4) the territory of use of the variety;
- 5) period of validity of the licence contract;
- 6) rights, obligations and liability of the parties to the contract;
- 7) amount of the licence fee, dates and procedure of payment thereof;
- 8) dispute settlement procedure;
- 9) other conditions which comply with laws and other legal acts.

#### **Article 35. Compulsory Licence Contract**

1. A compulsory licence contract may be concluded where there is a lack in the state of the protected variety of significance for the national economy or if the breeder has not been propagating the variety for a three-year period after the entry thereof in the Register of Protected Varieties. A natural or legal person who wishes to conclude a compulsory licence contract may apply to the Register of Protected Varieties Administrator.

2. A compulsory licence contract shall be concluded and rescinded upon the decision of the Register of Protected Varieties Administrator.

3. The licence fee payable for the use of a variety under a compulsory licence contract shall be fixed by the decision of the Register of Protected Varieties Administrator and shall amount to the average licence fee for the propagating material of the plant species payable in Lithuania.

4. The breeder must sell to the licensee the initial propagating material required for the propagation of the variety charging for it the price payable on the average for the propagating material of other varieties of the plant species.

5. A compulsory licence contract may be concluded for a maximum period of four years. The breeder may apply to the Register of Protected Varieties Administrator with a request to curtail the period of the compulsory licence contract or to rescind the contract, if the reasons for which it has



been concluded no longer exist or the licensee does not comply with the conditions laid down in the contract.

6. Conclusion of a compulsory licence contract shall not restrict the breeder's rights established by this Law.

7. Disputes arising in relation to the compulsory licence contract shall be settled by court.

## **CHAPTER EIGHT**

### **DECISION MAKING, APPEALING AGAINST THE DECISIONS AND DECIDING ON APPEALS**

#### **Article 36. Appealing the Application**

1. After the publication of the application every interested person shall have the right to be granted access to the application documents, results of technical examination of the variety and description of the variety.

2. Until the taking of decision either to grant the breeder's right or to refuse granting the right, the interested persons may apply to the Register of Protected Varieties Administrator with an appeal against the ineligible applicant as well as against the fact that the variety does not satisfy the conditions for the grant of the breeder's right, specified in Article 3 of this Law. Appeals against the variety denomination may be filed within three months from the day of publication of the application. Documents or other material justifying the appeal must accompany the appeal. The person who filed the appeal shall have the right to withdraw it at any time.

3. The Register of Protected Varieties Administrator must notify the applicant in writing of the received appeal or withdrawal thereof.

#### **Article 37. Board of Appeal**

1. For deciding on appeals from the decisions of the Register of Protected Varieties Administrator, also on appeals against inadequate performance of examination of applications and technical examination of varieties as well as for considering and deciding on other issues relating to legal protection of varieties, the Minister of Agriculture shall form the Board of Appeal composed of five persons and shall appoint the chairman of the Board. The Board of Appeal shall be formed for three years and comprised of the Ministry of Agriculture, farmers', non-profit organisation and scientific institution representatives.

2. The Board of Appeal shall function in accordance with the Regulations approved by the Minister of Agriculture.

3. Decisions of the Board of Appeal shall be binding to the Register of Protected Varieties Administrator.

**Article 38. Procedure of Decision Taking, for Appealing from the Decisions and Considering the Appeals**

1. The time limits and procedure for appealing from the decisions of the Register of Protected Varieties Administrator as well as the time limits for eliminating the established, for filing the received and withdrawn applications shall be set deficiencies of the application, for taking decisions and notifying of the taken decisions in the statute of the Register of Protected Varieties.

2. The decisions of the Register of Protected Varieties Administrator shall be appealable to the Board of Appeal, whereas appeals against the decisions of the Board of Appeal shall be lodged to court.

**CHAPTER NINE  
INTERNATIONAL COOPERATION**

**Article 39. International Agreements**

If international agreements to which the Republic of Lithuania is a party establish other requirements for legal protection of plant varieties than those laid down in this Law, the requirements of international agreements shall be complied with.

**Article 40. International Cooperation**

The Register of Protected Varieties Administrator shall cooperate with the institutions of other states, exchange information and documents relating to variety protection, perform other acts for the fulfilment of international obligations.

**CHAPTER TEN  
LIABILITY FOR INFRINGEMENT OF THE BREEDER'S RIGHT**

**Article 41. Liability for Violation of this Law**

Natural and legal persons who violate the requirements of this Law shall be held liable under the laws of the Republic of Lithuania.

**CHAPTER ELEVEN**  
**FINAL PROVISIONS**

**Article 42. Coming into Force of the Law**

This Law shall come into force from April 1, 2002.

**43. Acknowledgement of Laws as having been Repealed**

1. The following shall be acknowledged as having been repealed as of April 1, 2002:
2. 1) Republic of Lithuania Law on the Protection of the Varieties of Plants and Selection;
3. 2) Law on the Amendment of Articles 3, 6, 17, 18, 19, 20, 24, 25, and 27 of the Republic of Lithuania Law on the Protection of the Varieties of Plants and Seed Growing;
4. 3) Law on the Amendment of Article 23 of the Republic of Lithuania Law on the Protection of the Varieties of Plants and Selection.

*I promulgate this Law passed by the Seimas of the Republic of Lithuania.*

**PRESIDENT OF THE REPUBLIC**

**VALDAS ADAMKUS**

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