

# Law on Permission for Distribution of Agricultural Crop Varieties, Seeds and Planting Materials

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The Law regulates the relations arising at permission for distribution of agricultural crop varieties, including hybrid varieties; and the production and introduction of good quality seed and planting material into economic circulation.

## **Chapter I General Provisions**

### *Scope of the Law*

1. This law is applicable to all sowing and planting materials of crop varieties, national and imported, listed in the Appendix; intended for the distribution, production and introduction into economic circulation.

### *Legislation of Georgia on Permission for Distribution of Agricultural Crop Varieties, Seeds and Planting Material*

2. Legislation of Georgia on Permission for the Distribution of Agricultural Crop Varieties, Seeds and Planting Materials consists of the present law and other relevant legislative acts.

### *Definitions of Terms Used in the Law*

3. The terms used in the law have the following meanings:

(a) **Variety** – means a plant grouping which irrespective of legal protectability contains within a single botanical taxon of the lowest known rank the expression of the characteristics resulting from a given genotype or combination of genotypes distinguished from any other plant grouping by the expression of at least one of said characters; variety is an indivisible unit with regard to its suitability for being propagated unchanged.

(b) **First generation hybrid** – generation produced through crossing genetically different varieties in the first year.

(c) **Distinctness** – a variety is distinct if it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of the filing of the application or, where relevant, at the priority date.

The filing, in any country, of an application for a breeder's right or for entry in a catalogue of varieties admitted to trade shall be deemed to render the variety being the subject of the application, a matter of common knowledge from the date of the application, provided that the application leads to a grant of the breeder's right or the entry in the catalogue, as the case may be.

Common knowledge may also be established by reference to various factors such as exploitation of the variety already in progress, entry of the variety in the register of varieties kept by a recognised professional association or inclusion of the variety in a reference collection.

(d) **Uniformity** – a variety is uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in its relevant characteristics.

(e) **Stability** – a variety is 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.

(f) **Applicant** – a natural person or legal entity requesting for a permission for the distribution of a plant variety.

(g) **Diploma** – a certificate certifying the recording of a variety in the State Register of Varieties permitted for distribution in Georgia.

(h) **Permission for distribution** – official permission for the distribution of a variety in Georgia. Recommendations may be added regarding the use of the variety in certain climatic zones of Georgia.

(i) **State Register of Varieties Permitted for Distribution in Georgia (hereinafter – the State Register)** – a list of varieties permitted for distribution within the territory of Georgia.

(j) **Value for cultivation and use** – the qualities of the plant variety shall in comparison with the qualities of other plant varieties included in the Georgian State Register of Varieties constitute, either generally or as far as production in a specific area is concerned, a benefit either as regards crop farming or the use made of harvested crops or of products produced from harvested crops. The qualities of the plant variety shall, for this purpose, be taken as a whole, and inferiority in respect of certain characteristics may be off-set by other favourable characteristics.

(k) **Legal protectability of a plant variety** – a plant variety complying with the requirements defined by the legislation of Georgia.

(l) **Breeder** – a person, who has bred, discovered or developed a variety.

(m) **Examination as to formal requirements** – checking the fullness and drawing up of an application material of permission for distribution of a plant variety, as well as the integrity of the object described therein.

(n) **Seeds** – seeds of agricultural crops, botanical species of all sowing materials, fruit trees, berries, decorative flowers, fruits of medicinal plants, parts of compound fruit, collective fruit.

(o) **Planting material** means agricultural crop seedlings, vegetative propagating material, for fruit, berry crops, vines, tea, bulbs and tubers and other sub-tropical cultures.

(p) **Variety maintainer** – a natural person or a legal entity entered in the State Register as being responsible for maintaining a variety in accordance with the characteristics on basis of which the variety was recorded in the State Register.

(q) **Breeder's seed (Original seed)** – seeds of a generation earlier than that of Pre-basic seeds (Super-Elite) which have been obtained by a variety maintainer or under the responsibility of the maintainer by the other person.

(r) **Pre-basic seed (Super-elite)** – seeds of a generation earlier than that of Basic seeds (Elite seeds) which have been obtained through propagation by the plant variety maintainer or under his responsibility by the other person.

(s) **Basic seeds (Elite seeds)** – seeds which have been obtained through propagation by the plant variety maintainer or under his responsibility by the other person.

(t) **Certified Seeds of the First Generation** – seeds obtained by propagation of the Basic seeds.

(u) **Certified Seeds of the Second Generation** – seeds of plant production or intended for food obtained by propagation of Certified Seeds of the First Generation.

(v) **Qualitative seeds (sowing material)** – seedlings of perennial crops having a quality certificate.

(w) **Seed quality** – main quality specification of the seed (purity, germination, weight of 1 000 seeds, moisture content, seed health) certified by the quality certificate.

(x) **Seed health** – the condition of seed and planting material in relation to the presence of pests and diseases.

(y) **Field inspection (approbation) of seed crops** – determining the variety identity and variety purity of seed crops, certified by the respective certificate.

(z) **Inspection (approbation)** – determination of the variety identity and variety purity of seedlings, parental fruit trees, vines, tea citrus fruits and other planting material, certified by the respective certificate.

(aa) **Quality certificate** – official document (certificate) certifying the quality of the seeds and planting materials.

(bb) **Results of analysis** – official document certifying the results of laboratory analysis for determining the quality of the seed and planting material.

(cc) **Lot of seeds (planting materials)** – any seed (planting material) quantity of the same quality certified by a quality certificate.

(dd) **Introduction into economic circulation** – seeds eligible to be marketed as prescribed in the seed marketing regulations.

(ee) **Person having the exclusive right** – a person having the right to use a plant variety at his discretion on which he has a special certificate of legal protection; under this certificate the person having the exclusive right may introduce into economic circulation the plant variety protected by the certificate, receive income, as well as sell or alienate the certificate.

*State System of Permission for Distribution of Agricultural Crop Varieties,  
Production and Introduction of Selection Seeds and  
Planting Materials into Economic Circulation*

4. The State system of permission for distribution of agricultural crop varieties, production and introduction of selected seeds and planting materials into economic circulation consists of the following agencies under the Ministry of Agriculture and Food (hereinafter – the Ministry):

(a) the Inspection of Testing and Protecting of Selection Achievements;

(b) the Inspection of Quality of Seeds and Planting Materials;

(c) the Inspection of Phytosanitary Quarantine;

(d) the Centre of Plant Variety Breeders Rights Protection of Georgia (hereinafter – Sakjishtsenti);

(e) the Commission of Permission for Distribution of Plant Varieties.

*Functions and Duties of Sakjishtsenti*

5.—(1) Sakjishtsenti is a legal entity governed by the public law, which ensures legally the plant breeders rights.

(2) Sakjishtsentrī takes decision on legal protection of plant variety and grants a certificate confirming the exclusive right.

(3) The functions and the duties of Sakjishtsentrī are defined by regulations approved by the Minister of Agriculture and Food (hereinafter – the Minister).

(4) Sakjishtsentrī is headed by the Director of the Centre, who is appointed or dismissed by the Minister.

(5) The financial sources of Sakjishtsentrī are the income received from the fees defined by the prescribed rule for the following actions:

(a) for the legal protection of plant varieties and for the examination as to formal requirements of the application of permission for the distribution of plant varieties;

(b) for the state testing of plant varieties for DUS and VCU;

(c) for registration of plant varieties in the State Register of Varieties;

(d) for granting of plant variety protective documents (certificate, diploma);

(e) for maintenance of plant variety legal protection and of permission for distribution;

(f) for conducting other procedures related to main activities of Sakjishtsentrī;

(g) for information, consultation service and research activities.

(6) The income received from the activities of Sakjishtsentrī is placed on its account and is managed by Sakjishtsentrī. The amount which was not used during the year is transferred to the account of the following year.

(7) It is admissible to allocate for Sakjishtsentrī the finances among them grants from the State budget in respect to the rule under the legislation of Georgia.

(8) Sakjishtsentrī for December 1 of each year prepares the budget of the following year reflecting all the expenses of Sakjishtsentrī and source of its coverage.

(9) Sakjishtsentrī grants the diploma of permission for distribution of plant variety on basis of the decision on permission for distribution of the plant variety taken by the Minister.

(10) The budget of Sakjishtsentrī is approved by the Director of the Centre.

*Functions and Duties of the Commission of Permission  
for Distribution of Plant Varieties*

**6.—**(1) The Commission of Permission for Distribution of Plant Varieties is a standing consultative body established by order of the Minister on public basis.

(2) The Commission of Permission for Distribution of Plant Varieties:

(a) receive recommendations on permission for distribution of plant varieties and submits them to the Minister;

(b) by recommendation of Sakjishtsentrī considers the application materials of permission for distribution of plant variety.

(3) The Commission of Permission for Distribution of Plant Varieties is established with the complement of 20 members half of which are the State officials. The Chairman of the Commission is elected by the Commission members by ballot from those members of the Commission who are not State officials.

*Filing of the Application for Legal Protection and  
Permission for Distribution of Plant Varieties Bred, Discovered  
or Developed in Georgia Abroad*

7.—(1) Before filing of an application for legal protection and/or permission for distribution the plant variety bred, discovered or developed in Georgia with the respective office of the other country, a natural person or a legal entity is obliged to notify Sakjishtsentrī of the fact in a written statement.

(2) In the case of legal protection and/or permission for distribution of the plant variety in the other country, the natural person or legal entity is obliged to furnish Sakjishtsentrī with the copies of the relevant protective document (including the translation in Georgian language).

**Chapter II**  
**Permission For Distribution of Agricultural Crop Varieties**

*Legal Regulation of Permission for Distribution of Agricultural Crop Varieties*

8. The following categories of varieties recommended by the Inspectorate for Testing and Protecting of Selection Achievements are subject to permission for distribution:

(a) plant varieties and hybrids of local and foreign origin;

(b) plant varieties and hybrids protected in respect to the Law of Georgia on Protection of Selection Achievements.

*Filing of an Application for Permission of Plant Varieties for Distribution*

9.—(1) An application for permission of plant varieties for distribution is filed by the breeder of the plant variety or his/her legal successor, or representative.

(2) The application for permission of agricultural crop varieties for distribution shall include:

(a) request of permission for distribution in which the name, surname and legal address of the applicant, as well as of the breeder is indicated;

(b) plant variety description (main morpho-biological, botanical features and agronomic characteristics of the plant variety).

(3) The application within one month from filing with Sakjishtsentrī shall be attached with document confirming the payment of the fee prescribed for the examination as to formal requirements.

(4) The application of permission for distribution of a plant variety shall be filed in the State language, and the other application materials – in any foreign language. In the case of submitting the application materials in the foreign language the applicant within two months shall furnish the translation into the Georgian language certified by notary.

(5) The issues related to the procedure of the examination as to formal requirements are regulated by the legislation of Georgia.

(6) The application is filed with Sakjishtsentrī directly or by other means.

*Requirements Related to the Application of Permission  
for Distribution of Plant Variety*

**10.**—(1) The application of permission for distribution of plant varieties shall be accepted, if:

- (a) the name of the plant variety was agreed with Sakjishtsentr;
- (b) the plant variety is different from the known varieties;
- (c) the plant variety is uniform in terms of composition;
- (d) the plant variety is stable with generations;
- (e) if the species to which the plant variety belongs is entered in the appendix of this law.

(2) The value for cultivation and use (VCU) of a crop variety shall be determined by performance testing its agronomic characteristics over successive generations and comparing its performance with appropriate existing “control” varieties.

*Testing and Permission of Plant Variety for Distribution*

**11.**—(1) Testing a plant variety for distinctness, uniformity and stability (DUS) is conducted by the Inspectorate for Testing and Protection of Selection Achievements and governed by Georgian Legislation.

(2) The DUS tests will be conducted over two growing seasons (two years) and will be conducted according to the International Union of the Protection of New Varieties of Plants (UPOV) guidelines.

(3) Testing a plant variety for its value for cultivation and use (VCU) is conducted in the relevant soil-climatic areas of Georgia at the stations of the Inspectorate of Testing and Protecting of Selection Achievements or at locations agreed upon by the Inspectorate.

(4) The recommendation on permission for distribution of a plant variety shall be taken on basis of VCU state trials data for two years, provided that the state trial is continued for the third year.

(5) For DUS state tests and VCU trials the applicant shall supply the Inspectorate of Testing and Protecting of Selection Achievements the required quantity of seeds (seedlings) free of charge at a specified address and terms.

(6) If a plant variety according to the state trials in respect to the VCU indices is better than a local plant variety, then the application materials are transferred to Sakjishtsentr which shall submit them to the Commission of Permission for Distribution of Plant Varieties.

(7) The data of plant varieties permitted for distribution on the territory of Georgia are published in the official issue.

(8) The party concerned is entitled within three months from publication of the plant variety data in the official issue, in respect to the rule defined by this law, submit an appeal against the VCU criteria for the plant variety permitted for distribution after paying the prescribed fee.

(9) Sakjishtsentr sends the appeal materials submitted by the party concerned in the above terms to the applicant and the Inspectorate of Testing the Selection Achievements, which are entitled to submit the written response to Sakjishtsentr within two months.

(10) If the applicant in agreement with the Inspectorate of Selection Achievements fails to submit the well-grounded response to Sakjishtsentr, this latter within two months shall consider the appeal and shall submit it to the Commission of Permission for Distribution the Plant Varieties, which shall take the recommendation on permission for distribution of the plant variety.

(11) The permission for distribution of the plant variety is entered into the State Register, and the diploma on permission for distribution of the plant variety is granted to the natural person or the legal entity indicated in the request.

(12) The applicant or his/her successor during the vegetation period of the plant in the control plots is entitled to inspect on DUS and VCU, observe the state trial procedure of the plant variety presented by him for distribution permission.

(13) On basis of the State Register Sakjishtsentr publishes annually the List of Agricultural Crop Varieties Permitted for Distribution in Georgia, which is an official issue and contains main agronomic characteristics, morpho-biological and botanical features of each plant variety.

(14) The results of the DUS and VCU tests of a plant variety shall be made available to the applicant, his successor or his authorised representative.

(15) The VCU state trial results for all candidate varieties shall be made available to the Commission of Permission for Distribution of Plant Variety, the National Seed Advisory Council (NSAC) and with consent of the applicant is published in the official issue.

#### *Termination of Permission for the Distribution of a Variety*

**12.—**(1) The permission for the distribution of a variety shall be terminated if:

- (a) a variety fails to retain its distinctness, uniformity and stability (DUS).
- (b) the maintainer fails to supply seeds (seedlings) for a repeat set of VCU trials, which shall be conducted every 8-9 years.
- (c) the approved name of a variety is cancelled without giving a new one.
- (d) the annual fee for permission for distribution is not paid.
- (e) termination of permission for the distribution is requested by the maintainer.
- (f) the maintainer is no longer willing to maintain the variety.
- (g) a variety is found to be harmful to human beings and animals.

(2) In the cases provided for by the paragraph (1) of this Article the data on termination of the permission for distribution of a plant variety on the territory of Georgia shall be published in the official issue. The party concerned may within three months after publication of these data in the official issue present at Sakjishtsentr a well-grounded claim on necessity of maintaining the permission for distribution of the plant variety, provided that the defined fee is paid; otherwise, the termination of the permission for distribution of the variety is entered in the State Register by special record.

#### *Administrative Liabilities, Decisions and Publications*

**13.—**(1) Sakjishtsentr shall be responsible for:



(a) receiving applications for the legal protection of the candidate varieties, considering the applications, taking decisions and issuing relevant documents;

(b) receiving applications of permission for distribution of the candidate varieties, considering the applications and issuing relevant documents.

(2) Before taking the decision on legal protection of the plant variety and permission for distribution, and before issuing the relevant documents, in the case of paying the fee defined by this Law, Skajishtsentrī publishes the data of such varieties in the official issue and with the purpose of familiarisation lays the application materials open.

(3) Sakjishtsentrī shall publish annually the List of Plant Varieties Permitted for Distribution in Georgia.

(4) Sakjishtsentrī in agreement with the applicant published the results of the state trials in the Bulletin of Skajishtsentrī.

(5) With the purpose of seed breeding optimisation and ensuring of publicity by the order of the Minister the National Seeds Council is established as an advisory body.

(6) The statute of the National Seeds Council, composition and agenda is defined and approved by the Minister.

(7) The National Seeds Council includes in equal quantity the officials of the Ministry, representatives of non-governmental organisations and in private sector.

(8) The Inspectorate of Testing and Selection Achievements is obliged to maintain the collection of reference samples of all varieties permitted for distribution.

#### *Procedure of Repeated Examination*

**14.**—(1) The recommendation of Sakjishtsentrī or of the Commission of Permission for Distribution of Plant Varieties on conducting of the repeated examination is furnished to the Ministry.

(2) In order to take decision in each separate case under the order of the Minister the Experts' Council containing three members is established.

(3) The Chairman of the Experts' Council is appointed by the Minister.

(4) The Experts' Council defined its agenda and procedure independently.

(5) One member of the Experts' Council three members shall be a legal specialist, and two specialists in agriculture.

(6) The Experts' Council Shall not contain the State officials.

(7) The claim submitted at the Experts' Council shall be considered after paying the prescribed fee.

(8) The Experts' Council takes its decision in the form of a written statement. If the decision is not taken the claim is considered by the court.

(9) The decisions of the Experts' Council are kept in respect to the prescribed rule.

### **Chapter III**

#### **Legal Protection of Seeds and Planting Materials Quality**

##### *Assessment of Seeds and Planting Materials Quality*

**15.**—(1) The quality of seed and planting materials shall be assessed by the Inspection of Seeds and Planting Materials Quality (hereinafter – Quality Inspection).

(2) The quality of seed and planting materials shall be assessed through determination of quality indicators of seeds (seedlings) and compliance thereof with the standards prescribed in the seeds marketing regulations.

(3) The following shall be attached for the purpose of assessing the quality of seed and planting materials:

(a) field inspection (approbation) certificate;

(b) document certifying that the specified fee rate for assessing the quality has been paid.

(4) A Quality certificate is issued for seeds and planting materials complying with the standards prescribed in the seeds marketing regulations.

(5) The period of validity of the quality certificate shall begin from the day of completion of testing, the period of validity is determined in accordance with the seeds marketing regulations.

(6) For the seeds and planting materials which do not satisfy the standards defined by the seeds marketing regulations an official document – Results of Analysis is issued.

(7) The data of seeds and planting materials quality are presented to the applicant or his/her authorised representative. Presenting such data to other persons is prohibited.

### **Chapter IV**

#### **Production and Introduction into Economic Circulation of Seeds and Planting Materials**

##### *Introduction into Economic Circulation of Seeds and Planting Materials*

**16.**—(1) Introduction into economic circulation of seed and planting materials is permitted if:

(a) a variety related to seeds or planting materials is entered in the State Register;

(b) seeds and planting materials certified by a quality certificate and permission owned by the person having exclusive rights to the variety.

##### *The Obligations of Producer of Seeds and Planting Materials*

**17.**—(1) The producer of seeds and planting materials (hereinafter – producer) shall keep the following records:

(a) on the volume of production of seeds and planting materials;

(b) all field and seed quality inspection (approbation) reports for each lot of seeds intended for economic circulation.

(2) The producer shall keep the documents listed in this article for three years.

*Field Inspection (Approbation) of Planted Seed Crops  
Intended for Producing Seeds*

**18.** The rules of field inspection (approbation) of planted seed crops and perennial crops intended for producing seeds are approved by the Ministry.

*Conditions for Introduction into Economic Circulation of  
Seeds and Plant Materials*

**19.**—(1) Seeds and Planting materials introduced into economic circulation shall comply with basic seeds (Elite seed), certified seed of the first generation or certified seed of the second generation; and planting material – first or second quality degree.

(2) Seeds and planting materials introduced into economic circulation shall be certified by:

(a) list of agricultural crop varieties permitted for distribution in Georgia, indicating the variety related to the seed or planting material;

(b) permission of the person having special rights to use the variety (if the producer is not the owner of the variety);

(c) phytosanitary certificate (if imported or exported);

(d) quality certificate (before the expiry date);

(e) label in case of transportation in containers intended for importation – exportation of seeds and planting materials; identity documents in case of transportation without containers.

*Label and Container for Seeds and Planting Materials*

**20.**—(1) The data indicated on the label of the container for seeds and planting materials shall comply with the data indicated in the quality certificate.

(2) The container for seeds and planting materials treated with chemical and biological preparations shall bear a duly made notice. The instructions describing the preparations used for treatment of the seeds and the rules of treatment of such preparations shall be attached to the container.

(3) Chemical preparations that are used should be included in the relevant catalogue of products permitted for use in Georgia, and approved by the inspection for phytosanitary quarantine.

*Responsibility for Seeds and Planting Materials  
Introduced into Economic Circulation*

**21.**—(1) Disputes over the introduction of seeds and planting materials into economic circulation shall be considered by the court.

(2) Forgery of documents accompanying seeds and planting materials introduced into economic circulation or advertising false information shall be prosecuted in accordance with the current legislation.

### *Exportation of Seed and Planting Materials*

**22.**—(1) Seed and planting materials intended for exportation shall be certified in Georgia by the following documents:

- (a) quality certificate;
- (b) phytosanitary certificate.

### *Importation of Seed and Planting Materials*

**23.**—(1) Importation of seed and planting materials into Georgia of those varieties not included in the State Register, is allowed by the Minister's order under conditions of an emergency.

(2) Imported seed and planting materials intended for introduction into economic circulation shall be certified by the documents issued in the country of origin and in Georgia:

- (a) quality certificate;
- (b) phytosanitary certificate.

(3) Importation of seed and planting materials intended for scientific selection and exhibition purposes into Georgia shall be allowed at the request of the relevant organisation of the other country, provided that written notification has been received by the Ministry.

(4) Introduction of seed and planting materials into economic circulation from scientific selection and display at exhibition shall be deemed as a violation of the rules established by this law and is prosecuted according to Georgian legislation.

### *Transit and Re-export of Seed and Planting Materials*

**24.**—(1) The seed and planting materials imported into Georgia for the purpose of re-exportation shall be certified by the following documents:

- (a) phytosanitary certificate issued in the country of origin and in Georgia;
- (b) quality certificate issued in the country of origin;
- (c) an import permit, if required, by the country receiving the seed.

(2) The transit of seed and plant material within the territory of Georgia is regulated by the legislation of Georgia.

(3) Introduction of seed and planting materials intended for re-exportation and transit shall be deemed as a violation of the rules established by this law and is prosecuted under the legislation of Georgia.

### *Genetic Resources of the Crop Plants in Georgia*

**25.** The Georgian Co-ordination Centre for Protection and Use of the Genetic Fund of Agricultural Crops, scientific research institutes, Inspectorate for Testing and Protecting of Selection Achievements are charged with organisation of preservation and protection of genetic resources of the crop plants of Georgia.

### *Responsibility for Law Violations*

**26.** The responsibility for violation of this Law is defined by the legislation of Georgia.

**Chapter V**  
**Final and Transitional Provisions**

*Transitional Provisions*

**27.**—(1) Oblige the executive bodies of Georgia to harmonise the normative acts being in breach in respect to this Law.

(2) Oblige the Ministry of Agriculture and Food by the rule prescribed by the legislation approve the regulations on payment of the fee prescribed by this Law.

*Entry into Force*

**28.** This law shall enter into force at the moment of publication.

June 25, 1999.

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