

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 with respect to breeder's right 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 the 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 grouping 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 Minister 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 breeder and a natural or legal person, granting that person the right to propagate and disseminate the propagating material of the variety whereof a breeder’s right shall be applied.

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

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

12. **“Breeder”** means:

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

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

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

13. **“Remuneration”** 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. **“Common knowledge variety”** is a variety, whose existence is a matter of common knowledge. In particular, the filing of an application for the granting of a

breeder's right or for the entering of another variety in an official register of varieties, in any country, shall be deemed to render that other variety a matter of common knowledge from the date of the application, provided that the application leads to the granting of a breeder's right or to the entering of the said other variety in the official register of varieties, as the case may be.

Article 3. Conditions for the Breeder's Right of Plant Varieties

The breeder's right of a plant variety 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 harvested 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. Novelty shall not be lost as a result of any sale or disposal to others if:

1) that is the result of an abuse to detriment of the breeder or his successor in title;

2) that forms part of an agreement for the transfer of the rights in the variety;

3) that forms part of an agreement under which a person multiplies propagating material of the variety concerned on behalf of the breeder or his successor in title, provided that the property in the multiplied material is not used for the production of another variety;

4) that forms part of an agreement under which a person undertakes field test or laboratory trials, with a view to evaluating the variety;

5) that forms part of the fulfilment of statutory or administrative obligation, in particular those in relation to biological safety or inclusion of the variety in the list of plant varieties admitted to trade in the Republic of Lithuania;

6) in creating the variety or implementing the operations indicated in subparagraphs 3 -5 of this paragraph, plant material of the variety obtained as a by-product or surplus product shall be sold or disposed of without variety identification for purposes of consumption.

Article 5. Distinctness

1. The variety shall be deemed to be 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.

2. In particular, the filing of an application for the granting of a breeder's right or for the entering of another variety in an official register of varieties, in any country, shall be deemed to render that other variety a matter of common knowledge from the date of the application, provided that the application leads to the granting of a breeder's right or to the entering of the said other variety in the official register of varieties, as the case may be.

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, it is sufficiently uniform in its 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. List of Plant Varieties Protected in the Republic of Lithuania

1. The List of Plants Varieties Protected in the Republic of Lithuania (hereinafter - the List of Protected Varieties) is the principal document for recording varieties of plants that have been granted the breeder's right in Lithuania.

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

CHAPTER TWO

APPLICATION FOR GRANTING OF A BREEDER'S RIGHT TO A PLANT VARIETY

Article 9. Filing of the Application

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

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

3. A separate application shall be filed with respect to every variety. The request for granting of the breeder's right to a plant variety and the other documents of the application shall be filed in the Lithuanian or other language prescribed by the Administrator of the List of Protected Varieties. In this case, an official translation thereof shall be submitted in the Lithuanian language.

4. Where the variety has been bred or discovered and 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 with a Member State of the European Union, shall not restrict the applicant's right to file an application to the Administrator of the List of Protected Varieties without waiting for reply concerning granting of the breeder's right to a variety.

6. The date when the Administrator of the List of Protected Varieties received and registered an application for a breeder's right to a plant variety, 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 computed from 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 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 Administrator of the List of Protected Varieties in Lithuania, the applicant has already filed an application for granting of a breeder's right to the same variety with 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 Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties 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, within the period prescribed by the Administrator of the List of Protected Varieties, in which to furnish, according to the procedure laid down in this Law, to the Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties 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 was not the breeder, and the Administrator of the List of Protected Varieties has taken a decision to refuse granting of 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 to the Administrator of the List of Protected Varieties within one month from the date of taking 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 Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties shall be assessed.

2. Having determined within the period of one month that the submitted documents do not comply with the prescribed requirements, the Administrator of the List of Protected Varieties shall notify the applicant thereof in writing. If the stipulated deficiencies are corrected within the time limit indicated by the Administrator of the List of Protected Varieties, the application shall be deemed to have been filed on the day wherein the Administrator of the List of Protected Varieties received the

application for the breeder's right. Should the shortcomings fail to be corrected, the application shall be deemed not to have been filed and the applicant shall be informed thereof in writing.

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

Article 12. Substantive Examination of the Application

1. The Administrator of the List of Protected Varieties shall carry out substantive examination of the application within the period prescribed by the Administrator of the List of Protected Varieties, 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 Administrator of the List of Protected Varieties shall notify the applicant thereof in writing. Should the applicant fail to correct the deficiencies that might have been identified, the Administrator of the List of Protected Varieties 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. In the course of the examination tests may be carried in order to establish whether the variety complies with the requirements of distinctness, uniformity and stability.

2. Upon the decision of the Administrator of the List of Protected Varieties, the technical examination of the variety shall also be deemed to have been completed if the distinctness, uniformity and stability of the variety has 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 Administrator of the List of Protected Varieties. The Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties 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 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 Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties shall take a decision to reject the application and shall notify the applicant thereof in writing.

5. The Administrator of the List of Protected Varieties 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 granting of a breeder's right until the variety is granted protection. The holder of a breeder's right shall at least be entitled to equitable remuneration from any person who, during the said period, has carried out acts which have infringed upon his rights as provided in Article 26 of this Law.

Article 16. Publication of Information

The Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties.

CHAPTER FOUR VARIETY DENOMINATION

Article 17. Variety Denomination

1. The variety shall be designated by a denomination in accordance with its generic designation. The denomination shall be indicated in the application filed by an applicant.

2. After the variety has been entered in the List of Protected Varieties, it shall 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 breeder. It must be different from every denomination which designates, in the

territory of the Republic of Lithuania or any other state, an existing variety of the same plant species or of a closely related species.

2. Prior rights of third persons shall not be affected. 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

BREEDER'S RIGHT FOR A PLANT VARIETY: GRANTING, DURATION AND CANCELLATION OF THE BREEDER'S RIGHT

Article 20. Entry into Force of Breeder's right for a Plant Variety

1. Upon establishing that a plant variety satisfies the conditions for a breeder's right laid down in Article 3 of this Law, the Administrator of the List of Protected Varieties shall take a decision to enter the variety in the List 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 and the duration of the breeder's right shall be specified in the decision.

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

3. The breeder's right shall be granted on the same day as the denomination of the variety is entered in the List of Protected Varieties.

Article 21. Refusal to Grant the Breeder's Right to a Plant Variety

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

Article 22. Duration of the Breeder's Right of Plant Varieties

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

2. The Administrator of the List of Protected Varieties 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 may be extended if the breeder or his authorised representative files with the Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties. 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 of Plant Variety Null and Void

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

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

2) if the breeder's right to a plant variety has been based upon information and documents furnished by the breeder only, but at the moment of the granting of a breeder's right 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 is not entitled to it.

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

Article 24. Cancellation of Breeder's Right of Plant Variety

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

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

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

3) where the Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties shall notify the breeder in writing that his right may be cancelled for reasons specified in paragraph 1 of this Article and shall 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 Administrator of the List of Protected Varieties shall take a decision to cancel the breeder's right and inform the breeder thereof in writing.

4. The breeder shall forfeit his rights provided 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 Administrator of the List of Protected Varieties according to the procedure laid down in the Republic of Lithuania Law on State Fees and Charges and the procedure prescribed by the Government.

CHAPTER SIX

RIGHTS AND OBLIGATIONS OF THE BREEDER

Article 26. Rights of the Breeder

1. Subject to Articles 28 and 29, the following acts in respect of the propagating material of the protected variety shall require the authorisation of the breeder:

- 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 obtained through the unauthorized use of propagating material, it is necessary to obtain the authorisation of the breeder, unless the breeder has had reasonable opportunity to exercise his rights in relation to the said propagating material.

Article 27. Application of the Breeder's Right to Essentially Derived Varieties and Some 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 protected variety where the protected variety is not itself 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. For example, 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 Rights

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 are done for experimental purposes;

3) the acts are done 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 where the provisions of Article 27 of this Law apply.

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 remuneration to the breeder. The amount of the remuneration 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 remuneration 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 cultivated plots of land, the propagating material of a protected variety in Lithuania (except a hybrid or synthetic variety) of the species referred to subparagraph 1 of this Article.

4. The farmers and other land users may be exempt from the payment of the fee indicated in subparagraph 2 of paragraph 2 of this Article when the area of their own holdings 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 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 or 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 Administrator of the List of Protected Varieties documents confirming the fact.

2. The Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties 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 and if the breeder has not been propagating the variety for a three-year period after the entry thereof in the List of Protected Varieties. A natural or legal person who wishes to conclude a compulsory licence contract may apply to the Administrator of the List of Protected Varieties.

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

3. The licence fee payable for the use of a variety under a compulsory licence contract shall be fixed by the decision of the Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties 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 right 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 Against 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 Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties 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 Administrator of the List of Protected Varieties, 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 the breeder's right 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 by representatives of the Ministry of Agriculture, farmers', non-profit organisation and scientific institution.

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 Administrator of the List of Protected Varieties.

Article 38. Procedure for Decision Making, Appealing against the Decisions and Considering the Appeals

1. The time limits and procedure for appealing against the decisions of the Administrator of the List of Protected Varieties as well as the time limits for eliminating the established deficiencies of the application, for decision making and for notifying of the decisions made, for filing the received and withdrawn applications shall be set out in the Statute of the List of Protected Varieties.

2. The decisions of the Administrator of the List of Protected Varieties 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 the breeder's right of plant varieties than those laid down in this Law, the requirements of international agreements shall be complied with.

Article 40. International Cooperation

The Administrator of the List of Protected Varieties shall cooperate with the institutions of other states, exchange information and documents relating to breeder's rights, perform other acts for the fulfilment of international obligations.

CHAPTER TEN

LIABILITY FOR INFRINGEMENT OF PLANT BREEDERS' VARIETIES PROTECTION

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

The following shall be acknowledged as having been repealed as of April 1, 2002:

1) Republic of Lithuania Law on the Protection of Plant Varieties and Seed Cultivation;

2) The 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 Plant Varieties and Seed Cultivation;

3) Law on the Amendment of Article 23 of the Republic of Lithuania Law on the Protection of Plant Varieties and Seed Cultivation.

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

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS