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LAW ON PLANT VARIETY PROTECTION

I. GENERAL PROVISIONS

Article 1

This law regulates the procedure for the protection of new varieties of plants and granting and protection of plant breeder's rights.

The varieties of all genera and species can be protected including the cross-breeds between genera and species.

Article 2

The meaning of the terms used in this law:

1. 'Breeder' means the natural person who has created, bred, discovered and developed, a variety on his own or together with other natural persons.
2. 'Person entitled' means the natural or legal person who has the right to file the application for the protection of the variety (hereinafter: application).
3. 'Applicant' means the natural or legal person who has filed an application.
4. 'The holder of plant breeder's right' is a natural or legal person who has been granted plant breeder's right.
5. 'The plant breeder's right' is a term for all the rights from Article 14 of this law.
6. '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 plant breeder's right are fully met, can be:
 - defined by 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 these characteristics and
 - considered as a unit with regard to its suitability for being propagated unchanged.

7. 'Protected variety' means the variety for which the decision on the protection was issued, it is defined by the official variety description and by the official sample and is identified by the denomination stipulated by this law.

8. 'The material of the protected variety' means any kind of propagating material or harvested material of the protected variety which could be used for further multiplication of this variety.

9. 'Official sample' means the official sample of the propagating material of the protected variety.

Article 3

The procedure for the protection of a new variety, the register of applications for the protection of new varieties (hereinafter: register of applications) and the register of protected varieties are managed by Plant Variety Protection and Registration Office (hereinafter: Office) as a legal body within the Ministry, responsible for agriculture and forestry (hereinafter: Ministry).

II. CONDITIONS FOR VARIETY PROTECTION

Article 4

The variety shall be protected by granting the plant breeder's right.

The plant breeder's right shall be granted where it is:

- new,
- distinct,
- uniform,
- stable and
- identified by the denomination defined by this law.

Article 5

The variety is new at the date of filing of the application (hereinafter: filing date), if it has been sold or economically exploited with the consent of the person entitled in the Republic of Slovenia for no more than one year before the filing date and outside the Republic of Slovenia for no more than four years before the filing date and in case of trees and vine no more than six years before the said date.

The sales or economic exploitation of the variety in the sense of the first paragraph of this Article does not include:

- exploiting and trading the variety without consent or knowing of the person entitled,
- contract transfer of the rights in the variety,

- contract growing, propagating, processing and storing propagating material or harvested material of the variety for the person entitled provided that the person entitled keeps exclusive ownership right to reproduced propagating material, harvested material or their products,
- field trials and laboratory tests or small- scale processing trials with the purpose of evaluating the value for cultivation and use of the variety provided it is done by the person entitled or a person authorised by him,
- official testing of the variety in order to enter the variety register and preparing the risk assessment for genetically modified varieties,
- selling the harvested material being a by-product or a surplus product of the creation of a new variety provided that this harvested material is intended for final use and that the name of the variety is not identified.

Propagating material of the variety being repeatedly used for production of another variety or a hybrid, is considered exploited for profit purposes when the plants or parts of plants of another variety were exploited.

Article 6

The variety is distinct if it is clearly distinguishable on the basis of at least one important characteristics from any other variety whose existence is a matter of common knowledge at the time of the filling of the application.

The variety is of common knowledge, especially if:

- it has been protected and listed in the variety register in any other country up to that day;
- an application for variety protection or listing the variety in a variety register was filled in any other country and the procedure is completed by the variety protection or entry of the variety in the register of varieties, and
- propagating material of the variety or the harvested material has been marketed or used for profit purposes.

Article 7

The variety is uniform if its characteristics which are basic for the distinction from other varieties, are sufficiently uniform in expression, in spite of the variations which may be expected from particular features of its propagation.

Article 8

The variety is stable if its relevant characteristics remain unchanged after repeated propagation or, in case of a particular cycle of propagation, at the end of each such cycle.

Article 9

The denomination of a protected variety shall be its generic designation.

Article 10

Every denomination, which provides the distinguishing of the variety can be registered as the name of the protected variety and it may consist of any word, combination of words, combination of words and figures or a combination of letters and figures unless this law stipulates it otherwise.

Denomination should not be registered as the name of the protected variety if it:

- is inappropriate for linguistic reasons;
- prevents the identification of the variety;
- consists only of figures, only where this is already a common practise;
- is identical with or similar to the denomination that designates an existing variety of the same or a closely related species, unless the existing variety is no longer exploited and its denomination has not acquired any particular significance;
- misleads or causes confusion as to the origin, characteristics, value, usage, recognising or geographical origin;
- consists of botanical or general name of the genera or species, or includes such a name that can create confusion;
- includes words such as "variety, cultivated variety, form, hybrid, cross-breed" or a translation of these terms;
- misleads or creates confusion about the breeder or entitled person;
- is contrary to public order and morality;
- is in opposition with the regulations of industrial property rights law.

If a certain variety has already been protected or listed in the variety register or an application for protection or entry in the register has been filed in any other state that has signed international contracts or conventions also signed or acceded to by the Republic of Slovenia, only the denomination of the variety which was registered, listed in the variety register or proposed in the application in another country, can be registered.

Exceptionally, the variety defined in the Republic of Slovenia, can be registered under a different nomination, but only if the usage of the previous name is not be suitable for linguistic reasons or in case of it being contrary to public order and morality.

Closely related species from the third item of the second paragraph of this article as well as more detailed conditions for the registration of the name of the variety shall be regulated by the Minister, competent for agriculture and forestry (hereinafter: Minister).

Article 11

The usage of the denomination of the protected variety is obligatory. The propagating material of the protected variety can only enter the market if the name of the protected variety is listed. This provision stands also after the expiry of the protection of the variety.

Provisions from the first paragraph of this article do not stand if the propagating material of the protected variety is used in non-commercial purposes in private sector.

The denomination used for the protected variety must be the same in all countries, except in case of exceptions from the fourth paragraph of the Article 10 in this law.

When a variety is marketed, the use of the registered variety denomination in association with a trademark or other indication shall be permitted, subject to the denomination remaining easily recognisable.

A designation that is identical or confusingly similar to the denomination of the protected variety can not be used for another variety of the same or closely related species.

III. PERSON ENTITLED TO THE VARIETY PROTECTION AND TO PLANT BREEDER'S RIGHT

Article 12

Person entitled to the variety protection and to the plant breeder's right is a breeder of the variety or his legal successor.

Where more persons have created, bred, discovered and developed a variety jointly, the entitlement to variety protection and plant breeder's right shall vest in them or their legal successors jointly.

Where more persons have created, bred, discovered and developed a variety separately, the one who first submitted the application is entitled to the plant breeder's right.

Where the breeder is an employee of a legal person and mutual rights and obligations are settled by a contract, the entitlement to the acquisition is defined by this contract. If not, the provisions of the regulations on industry property rights from the working contract considering the patents, are sensibly applied.

Article 13

The plant breeder's right can be applied for by the entitled person from Article 12 of this law, who is a citizen of the Republic of Slovenia, other natural person with residence in the Republic of Slovenia and legal person with a registered office in the Republic of Slovenia.

Legal or natural person, a citizen of a foreign country, is granted the same plant variety protection rights in the Republic of Slovenia as domestic legal and natural person, if stipulated so in international contracts and conventions signed by the Republic of Slovenia or under the condition of reciprocity. The reciprocity is proven by whoever refers to it.

In the procedure of the Office, a foreign legal and natural person uses the rights of this law through a procedural representative on who is a natural person with residence in the Republic of Slovenia or legal person with a registered office in the Republic of Slovenia.

IV. PLANT BREEDER'S RIGHT

Article 14

The plant breeder's right is granted by protecting the variety.

The plant breeder's right includes only the right for economic exploitation and using the protected variety.

Article 15

The authorisation of the holder of the plant breeder's right is required for the use of the protected variety for:

- production and reproduction of propagating material,
- conditioning for the purpose of propagation,
- marketing of propagating material, including exporting and importing and
- stocking the material of the protected variety for any of the purposes mentioned above.

The holder's authorisation is also required for using harvested material of the protected variety but only if:

- the harvested material is obtained through the unauthorised use of propagating material of the protected variety and
- the holder did not have a suitable opportunity to apply for plant breeder's right for propagating material of this variety.

The holder's authorisation for the acts in the first four items of this Article is also required for:

- varieties which are essentially derived from the protected variety, unless the protected variety is itself a derived variety;
- varieties which are not clearly distinguishable from the protected variety;
- varieties or hybrids whose production requires the repeated use of the protected variety.

A certain variety is an essentially derived variety if:

- the initial variety or another variety which was itself derived from the initial one, was used as the basic material for its breeding or discovery;
- it is distinguishable subject to Article 6 of this law and
- except for the differences which result from the act of derivation, 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.

Article 16

The plant breeder's right is not infringed if:

a) the protected variety is exploited or used for:

- private non-commercial purposes;
- experimental purposes;
- breeding of new varieties;

b) the new variety from the third item of a) of this Article is economically exploited unless this new variety is an essentially derived one;

c) if the harvested material of the protected variety of certain plant species, produced by the farmers on their own holdings, is used for further sowing on this farm and the farmer, using this opportunity, pays a suitable remuneration to the holder of plant breeder's right. The remuneration is suitable if it is considerably lower than the amount charged for the licensed production of propagating material of this variety in the same area.

The producers who use the possibility of further sowing in accordance with item c) of the first paragraph of this Article, must present all the data on the extent of the further sowing to the holder of plant breeder's right on his request.

Small farmers are exempt from the remuneration in accordance with item c) of the first paragraph of this article.

The plant species from item c) of the first paragraph of this Article as well as the criteria for small farmers shall be regulated by the Minister.

Article 17

The plant breeder's right is also infringed if the propagating material of the protected or essentially derived variety is marketed by the holder himself or someone in agreement with him, if the person obtaining the propagating material of the protected or derived variety:

- uses entire plant, a part of the plant or the harvest of the protected or derived variety for further reproduction;
- exports the material of the protected or essentially derived variety which can be used for further reproduction, into a state where the plant genera or species of this plant can not be protected.

This provision does not stand if the exported material is intended for final use.

Article 18

The plant breeder's right shall expire at the end of the twentieth calendar year following the date of the granting, for hops, grapevine and trees, it shall expire at the end of the twenty-fifth year after the year of the granting if this law does not stipulate otherwise.

Regardless the provisions of the previous paragraph, the person entitled from the Article 12 of this law who has already filed a complete application, shall be entitled to equitable remuneration, if during the procedure for the variety protection any person economically exploited or used the variety for which the application had been filed, contrary to the Article 15 of this law. The entitled person shall be entitled to remuneration only for the period between the date of the publication of the application in the Gazette and the date of being granted plant breeder's right.

The plant breeder's right shall terminate:

- when the holder surrenders it;
- when the term provided in the first paragraph of this Article expires;
- by abolition or cancellation of decision with which it was granted.

V. THE PROCEDURE FOR VARIETY PROTECTION

1. Bodies

Article 19

The Office shall have the following competencies and tasks:

- to manage the administrative procedure for protection of new variety and the registration of the denomination according to this law and the law on general administrative procedure;
- to maintain the register of applications and the register of protected varieties;
- to publish in the Gazette: applications for the grant of plant breeder's right including the variety denomination, rejections of applications, registrations and possible changes in the register of applications, withdrawals of applications, regulations on variety protection and possible changes and other official announcements;
- to co-operate with international organisations and associations as well as state bodies and non-government organisations in the field of protection of new varieties;
- to co-operate technically and professionally with competent offices of other countries in the field of testing varieties and checking the maintenance of the varieties;
- to exchange the results of the testing of the varieties and other information in their competence with competent bodies in other countries;
- to monitor the fulfilling of obligations of the holder of plant breeder's right and
- to perform other tasks in the field of variety protection.

The Gazette for the publications of the Office and more detailed content of the publications shall be regulated by the Minister.

Article 20

The Minister shall appoint the expert commission for variety protection (hereinafter: commission). The commission shall consist of 5 members who choose their president amongst themselves and his deputy. The commission shall operate according to the business plan, confirmed by the Office.

The commission holds the position of an expert in the procedure of variety protection and on the basis of studying the application and presented documentation, proposes to the Office their decision about the protection of the variety.

2. Registers

Article 21

The Office shall maintain a register of applications and a register of protected varieties according to the regulations.

The registers include the data from the documents on the basis of which the entry in both registers is performed. The documents are put into the document files which are the basis for both registers.

The register of applications shall contain mostly the following:

- the data on the applicant, breeder and procedural representative;
- date of complete application;
- the identification of the plant species;
- the proposed denomination for the variety or a provisional designation;
- where the priority of an earlier application is claimed, the country in which the application was filed and the filing date in this country;
- proposal for withdrawal of the application;
- notifications on the courts' decisions on the right to file an application.

The register of the protected varieties shall contain mostly the following:

- the plant species and registered denomination of the variety, including all synonyms;
- official description of the variety or reference documents from the document file which include the official description of the variety;
- in case of the varieties the production of which requires repeated use of other varieties (components), these components must be listed;

- the name and surname of the holder of plant breeder's right, breeder and procedural representative;
- the date of the granting and of the termination of the variety protection with the reasons for termination;
- the name and address of the person onto whom the right for economic exploitation of the variety was transferred by the licence contract;
- the name and address of the person to whom a compulsory licence was given, with the conditions of this act and the date of expiry of this right;
- the official announcement of the courts' decisions on the plant breeder's right.

The Office shall keep the document files in original form or copies at least for five years after the withdrawal or rejection of application and five years after the expiry of the plant breeder's right.

The content and the way of maintaining the registers in detail shall be specified by the Minister.

Article 22

The register of applications and the register of the protected varieties are public.

The Office is obliged to provide it for every person who expresses legal interest, the insight into the following documents from the document files:

- the documents of applications
- the documents of the granted plant breeder's rights
- the documentation on official testing of varieties.

Regardless the provisions from the previous paragraph, the applicant can demand with regard to a hybrid, that the documentation about the component of the variety, shall not be subject to public insight.

3. Procedure fees

Article 23

In the procedure for the protection of new variety and maintenance of plant breeder's right, the fees and the costs of the technical examination of the application, the costs of variety testing and the costs of publication and other services, shall be borne by the applicants or holders of plant breeder's right.

The type and amount of the fees and costs from the first paragraph of this Article as well as the amount of the fee from article 39 of this law is regulated by the Government of the Republic of Slovenia.

4. The procedure for variety protection

Article 24

The procedure for variety protection shall begin on the basis of an application submitted to the Office by the applicant.

The office shall make decisions about the application in the legal procedure.

A legal claim sent to the Ministry is allowed against administrative acts of the Office.

Article 25

The application shall be filed on a regulated form filled out and shall include mostly the following data:

- about the applicant or his representative or authorised person;
- about the breeder unless he is the applicant himself;
- Latin and Slovene name of the species of the variety;
- proposal of the denomination of the variety or temporary designation of the variety;
- the state in which the application has already been filed, the date of the application in that state if the application procedure demands the priority right;
- technical description of a variety which can be enclosed to the application and
- in case of the genetically modified variety previous approval for variety testing in accordance with the regulations on genetically changed organisms, shall be enclosed to the application.

A detailed form and content of the application and the documents which need to be enclosed, shall be regulated by the Minister.

Article 26

The Office shall check whether the application is complete and correctly filled out and if the evidence of a paid fee is enclosed.

If the application is not complete or is not filled out correctly or the fee has not been paid, the Office applies to the applicant to add to it or pay a fee within 30 days after receiving the notification. If an applicant does not fulfil the obligations to the Office in the defined term, his application shall be treated as non existing subject to the decision of the Office.

The certificate of a complete application is issued for the applicant. A complete application is entered into the Register of applications and published in the Gazette. As the date of the complete application, the date of the receipt of the application or the date of the additions with which it became complete, is written.

An extract from a complete application is published in the Gazette three months after its submission.

Article 27

An applicant who filed an application for the protection of a new variety in the Republic of Slovenia may after submitting a complete application for the same variety in another state claim for the right of priority in conditions of actual reciprocity. In this case, the date of a complete application in a foreign state is taken as the filing date in the Republic of Slovenia. The applicant is entitled to all the rights under an application on the day of the submission of complete application in a foreign state.

The right of priority from the previous paragraph must be explicitly demanded by the applicant in his application.

The applicant can use the right of priority in the Republic of Slovenia no later than 12 months after the filing of complete application abroad.

Article 28

As for the applications published in the official gazette on the basis of the fourth paragraph of Article 26 of this law, any person who has legal interest, may file objections during the procedure for the protection of the variety.

The objection shall only refer to fulfilment of the conditions from Articles 5, 6, 7, 8 and 10 of this law or the entitlement to the protection according to Article 12 of this law.

The objection shall be made in writing and substantiated. The documentary evidence shall be attached and the defined fee shall be paid.

The Office shall instantly send the received objection to the applicant and appeals for his response at least within 30 days after receiving the objection.

The Office shall respond to the persons who have filed the objections at least 3 months after the filing of the objection.

Article 29

The Office shall examine whether the application satisfies the formal requirements in such a way that the data in the application are checked, whether the variety is new and whether the applicant is entitled to the plant breeder's right. If it is established that the conditions from Articles 5 and 12 are not met, this application shall be rejected.

Article 30

The Office shall also examine the suitability of the proposed denomination of the variety. Where the denomination is in opposition to the provisions of Article 10 of this law, the Office shall notify the applicant to propose a new denomination for the variety. The proposal must be presented no later than three months after receiving notification.

In the procedure for the protection of a new variety, the Office is obliged to use exclusively the denomination of the variety which is listed in the register of applications for the protection of a new variety.

Article 31

If the conditions from Articles 26 and 29 of this law are met, the technical examination shall be undertaken for each variety the purpose of which shall be:

- to check whether a variety belongs to the botanical unit, that is a plant genera or species, notified in the application;
- to define whether a variety is distinct, uniform and stable (Articles 6,7 and 8 of this law) and
- to prepare official variety description provided that the conditions from the previous two lines are met.

Technical examination shall be undertaken on the basis of the results of the examination of the variety in the field or in the laboratory.

The examination can be undertaken by:

- the Office or a professional institution on its behalf in the Republic of Slovenia or abroad where the examination is undertaken in comparable agroclimatical conditions according to regular procedures and methods;
- the applicant if demanded by the Office.

Where the Office does not undertake the examination itself official supervision of the variety examination shall be ensured by the Office.

For the technical examination of a variety, the Office can use the examination results obtained in another state which has comparable agroclimatical conditions provided the examination was undertaken within the international systems of examination and the results are issued on the basis of international agreements signed or acceded to by the Republic of Slovenia.

Detailed conditions, procedures and methods of variety examination shall be regulated by the Minister.

Article 32

The applicant shall submit all necessary data, documents or propagating material requested for technical examination of the variety for the purposes specified in the first paragraph of Article 31 of this law.

Failure to submit the requested information under the conditions from the first paragraph of this Article for no justified reason shall cause an application to be rejected.

Article 33

Where the results of the examination prove that the variety fulfils the requirements of Article 31 of this law and the applicant has fulfilled all required conditions, the Office shall issue a decision on the protection of the variety and it shall be recorded in the Gazette.

The data from the legal decision on the protection of the variety or on the rejection of the application shall be included in the Register of Applications.

With the legal decision on the protection of the variety, the plant breeder's right certificate valid from the date of the legal approval, shall be issued to the holder of plant breeder's right.

On the basis of legal approval of the decision of the variety protection, the corresponding data shall enter the Register of the protected varieties.

The form and the content of the plant breeder's right certificate shall be specified by the Minister.

5. Lapse of the Plant Breeder's Right

Article 34

At the request of the holder of plant breeder's right from the first line of the third paragraph of Article 18 of this law, the Office in a legal procedure issues a decision recognising that the plant breeder's right shall be terminated at the request of the holder. The plant breeder's right shall be terminated on the following day after receiving of a written declaration of the holder.

On the basis of a legal decision from the first paragraph of this law, the termination of the plant breeder's right shall be recorded in the Gazette.

Article 35

In a legal procedure, the Office declares a decision on the variety protection null and void when it is established:

- that the variety was not new (Article 5) or distinct (Article 6) at the date of receiving complete application;
- where the variety was not uniform (Article 7) and stable (Article 8) at the date of receiving complete application, and the grant of the plant breeder's right had been essentially based upon information and documents submitted by the applicant;
- where the plant breeder's right had been granted to a person who is not entitled to it and the entitled person has not brought an action for judicial assignment under Article 37 of this law.

Article 36

The Office shall cancel a decision on the protection of a variety in a legal procedure without a consent or request of the holder when:

- it is established that the holder failed to meet his obligations under Article 44 of this law or that the variety is no longer uniform (Article 7) or stable (Article 8);
- the holder within the prescribed period does not meet the written request made by the Office to provide the propagating material or the documentation for the purpose of verifying the maintenance of the variety under Article 44 of this law;
- the holder does not meet the written request of the Office to provide a new proposal for the variety denomination under the first paragraph of Article 38 of this law within the prescribed period;
- the holder does not pay the annual fee for the plant breeder's right to remain in force under Article 43 of this law in the prescribed time.

Article 37

Where a person who is not entitled to the plant breeder's right filed an application for protection or was granted the plant breeder's right, the entitled person may bring an action for the assignment of the plant breeder's right to him.

The demand from the previous paragraph can be filed after the date of the publication of the application for protection of new variety in the Gazette, but no later than 5 years after the publication of the application in the Gazette.

When the unjustified rights were transferred to the third party in case of a situation under the first paragraph of this article, the transfer shall become null and void.

However, regardless the provisions under the third paragraph of this Article, the holder of any exploitation rights acquired in good faith who had exercised his rights before the beginning of the procedure under the first paragraph of this Article, may continue to perform the exploitation of the variety subject to paying appropriate remuneration to the entitled person.

6. Cancellation of a Denomination of the Variety

Article 38

The denomination registered in the Register of the applications or in the Register of the protected varieties shall be cancelled only under the following conditions:

- when the applicant or the holder of the plant breeder's right requests so and proves having the legitimate right for this action; the reasons for the cancellation and a suggested new denomination need to be presented;
- when it is additionally defined that the variety denomination was registered in spite of the reasons for refusal according to Article 10 of this law;
- where the holder or any other party is officially prohibited to use this denomination.

The applicant or the holder of plant breeder's right shall be instantly notified in writing of the proposal or claim for the cancellation of the denomination by the Office which shall demand that a new denomination be suggested no later than three months after receiving the claim. After the performed procedure under Article 30 of this law, the suggested denomination shall enter the appropriate Register and shall be published in the Gazette provided it fulfils the conditions regulated by this law. Simultaneously, the previous denomination is cancelled from the Register.

7. Restitution (*Restitutio in integrum*)

Article 39

In the procedure for the protection of the variety, the holder of the plant breeder's right, the applicant or any other party in the procedure, who for justified reasons failed to pay the fee or to fulfil other obligations to the Office and would therefore lose the plant breeder's right under Article 36 of this law, can request the restitution of his right.

The request shall be submitted no later than two months after expiry of the reason for not fulfilling the obligation, but no later than one year after the expiry of the term for the obligation to be fulfilled. The request should also include the explanation and evidence of paid fee.

When the request is granted, the Office specifies new term in which the applicant must perform the unfulfilled obligations. The term for fulfilment should not exceed the term that was delayed, and it begins from the date of receiving the notification of granting the request.

The person to file the request for restitution of his right has no right to demand the remuneration if during the time between the loss and the return of the right, any person exploited or entered into a contract for exploitation of the protected variety in a good will.

VI. TRANSFER OF THE PLANT BREEDER'S RIGHT AND ASSIGNMENT OF THE USE OF PLANT BREEDER'S RIGHT

Article 40

The holder of plant breeder's right may contract to transfer his rights wholly or partially to another person.

The person entitled or the applicant may transfer the right to file an application for the protection of a new variety or the rights from the application.

The contract of the transfer of the rights from the first and the second paragraph of this Article must be composed in writing, otherwise it is null.

The transfer of the rights from the first and the second paragraph of this article must not influence the previous rights of the third persons.

The transfer of the plant breeder's rights has no legal force for the third persons until the contract has not entered into the relevant register. The request for the entry of the contract of the transfer of the rights into the register can be submitted by any contracting party.

Article 41

The holder of the plant breeder's right may contract to transfer the right to economic exploitation of the protected variety partially or wholly to the third person.

The licence contract shall enter the relevant register at the request of one of the contracting parties.

The licence contract which has not entered the relevant register from the previous paragraph, has no legal force.

The regulations on obligatory relations shall be used to define the form, the way of entering into a contract and the content of the licence contract as well as the legal protection.

Article 42

In case of a public interest and if the protected variety is not economically exploited or not exploited to a sufficient extent by the holder of plant breeder's right himself or some other person having his authorisation, and he does not want to assign the right for exploitation to another person or sets unjustified conditions for the assignment of the right, the other person can be granted a compulsory licence.

The compulsory licence can only be granted to the person who presents the evidence of possessing technological and production possibilities needed for effective exploitation of the protected variety as well as all needed material resources.

The compulsory licence can not be granted if the holder of the plant breeder's right presents the evidence of justified reasons for lack of exploitation or insufficient exploitation of the protected variety.

The compulsory licence can not be granted if less than three years have elapsed between the date of the grant of the plant breeder's right and the date of the application for the grant of a compulsory licence.

The compulsory licence gives the holder of the licence a non-exclusive right to perform the actions referred to in Article 15 of this law partially or wholly with the purpose of supply of the domestic market.

The compulsory licence shall be granted for a period of at least two and no more than four years. The term of the licence may be extended where it is defined on the basis of a new examination, that the conditions for the grant of the license continue to exist on the expiry of the first term.

The decision upon the request for grant or extension of the compulsory license is made by the Office in a legal procedure. Before granting a compulsory license, the Office may hear the opinions of the organisations concerned.

In case of granting the compulsory license, the holder of the plant breeder's right is entitled to a reasonable payment.

The amount of the payment from the previous paragraph is fixed by the holder of the plant breeder's right and the licensee. If the agreement is not made, the Office shall fix the amount.

The Office may require the holder of the plant breeder's right to provide the licensee with the propagating material for use of the variety on the basis of the compulsory license. The licensee shall give the holder adequate payment for the propagating material.

If a compulsory license is granted, the holder of the plant breeder's right may claim the data of the production of the propagating material of the protected variety, from a professional institution, authorised for performing field control of the production of the propagating material.

VII. OBLIGATIONS OF THE USER OF THE PLANT BREEDER'S RIGHT AND OF THE THIRD PERSONS

Article 43

In order to maintain the plant breeder's right, the holder must pay an annual fee for the breeder's right to remain in force.

The annual fee shall be paid in the beginning of the calendar year for the current year of the protection, no later than on January 31.

If the annual fee is not paid in the additional term set by the Office which shall not exceed 6 months after receiving the notification, this right is cancelled.

Article 44

While the protection is in existence, the holder shall be under an obligation to maintain the protected variety or its hereditary components unchanged.

At the request of the Office, the holder shall provide it or an authorised authority with the data, documents or propagating material that is needed for verifying the maintenance of the variety.

Where the evaluation shall suggest that the holder has failed to maintain the variety, the Office shall start the procedure for cancellation of the plant breeder's right.

Article 45

At the request of the Office, the holder must provide an appropriate sample of the propagating material or its hereditary components in a prescribed period:

- for an official sample or for the renewing of the official sample;
- to perform comparable examination of other varieties subject to the protection procedure.

The Office can authorise the holder of the plant breeder's right to keep and renew the official sample of the propagating material himself.

Article 46

When a person is economically exploiting or using the propagating material of the protected variety without an agreement or against the agreement with the holder of the plant breeder's right, must present the holder with all the relevant data at his request.

In case the data is not provided at free will, the holder of the plant breeder's right can request that the Office shall issue a temporary decision demanding from the perpetrator to present the data. A complaint against the temporary decision shall not hold its execution. The temporary decision shall be executed in a legal procedure.

VIII. JUDICIAL PROTECTION

Article 47

The person who infringes the rights under the application or the plant breeder's right, shall be held responsible for the damage according to general provisions on the damage repayment.

The person whose right has been infringed, shall have the right to demand damage repayment as well as the cessation of continued performance of infringement.

Infringement of the plant breeder's right shall be any unauthorised economic exploitation of the protected variety.

Article 48

Legal action claims regarding the infringement of the plant breeder's right, may be submitted within three years from the date on which the holder learnt about the infringement. Five years after the date of occurrence of the infringement, no claim can be submitted.

Legal action is submitted to the court and the procedures of dealing with the issue shall be speedy.

IX. CONTROL

Article 49

The control over the acts from provisions of Articles 11, 15, 16 and 46 of this law shall be performed by agricultural and forestry inspectors.

When there is a reasonable doubt that the infringement has taken place, the agricultural or forestry inspector shall temporarily seize the objects which were used or were intended for act of infringement or were a consequence of the infringement.

The temporarily seized objects as well as the request for legal procedure as to the infringement shall be instantly submitted by the agricultural or forestry inspector to the responsible authority.

Article 50

If the holder of the plant breeder's right suspects that his right could be infringed by export of material of the protected variety from Slovenia or import into Slovenia, the fitosanitary inspectors shall, according to his request, demand that:

- the holder or his representative examine this material;

- this material is seized, excluded from traffic and kept.

As to the proposal from the first paragraph of this Article, the holder shall provide the fitosanitary inspector with a detailed description of the protected variety, satisfactory evidence of the plant breeder's right and the suspected infringement. At the demand of the fitosanitary inspection, the holder shall pay caution money for the possible damage caused by these measures.

Fitosanitary inspector shall instantly inform the importer or exporter of material of the protected variety and in case of import to Slovenia the receiver of that material. Fitosanitary inspector cancels the adopted measures if the person entitled shall not take legal action or start another procedure to justify the adopted measures within the period of seven days.

X. PENAL PROVISIONS

Article 51

A fine of at least 500.000 tollars shall be imposed on a legal person if without the consent of the holder of the plant breeder's right: if he produces or multiplies the propagating material of the variety protected by this law, if he prepares the material of the protected variety for multiplication, if he puts into the market, imports or exports the propagation material of the protected variety and keeps the material of the protected variety for the purposes mentioned above (Article 15).

A fine of at least 350.000 tollars shall be imposed to a legal person:

- if in opposition to the first paragraph of Article 11, puts the material of the protected variety to the market without stating the registered denomination of the variety of the denomination is not correct;
- if in opposition to the fifth paragraph of Article 11 uses the denomination of the variety protected by this law of the denomination which can be confused by that denomination, by some other variety of the same or closely related species;
- if in opposition to the second paragraph of Article 16 and Article 46 does not provide the holder with the requested data.

A fine of at least 70.000 tollars shall be imposed on the person responsible for the legal person for the infringement from the previous paragraph.

A fine of at least 350.000 tollars shall be imposed on an individual for the infringement from the first paragraph of this Article if he does it in connection to independent performance of the activities.

A fine of at least 70.000 tollars shall be imposed on a person for the infringement from the first paragraph of this Article.

XI. TRANSITIONAL AND FINAL PROVISIONS

Article 53

The variety which had been protected until the adoption of this law according to the previous valid regulations shall enjoy protection according to this law until the expiry of the granted plant breeder's right.

The plant breeder's right for a variety from the previous paragraph can be proclaimed null and abolished only if defined that at the time of granting not all conditions with regard to the distinctiveness, uniformity and stability of the variety were met.

Article 54

The procedures for the variety protection that are in place at the date when this law came into force, continue according to this law.

In spite of the provision of the previous paragraph, the variety which is not new on the date when the law came into force, can be exceptionally protected if:

- a) the application for the protection of this variety was submitted before the adoption of this law,
- b) the variety fulfils other conditions for protection from Article 4 of this law and
- c) it is protected or in the process for protection in one of the states which have signed international contracts and conventions signed by the Republic of Slovenia, and the procedure shall be completed by the protection of the variety.

In case of granting the plant breeder's right according to the second paragraph of this Article, the plant breeder's right lasts no more than 20 years and 25 years for trees after the date of grant of the plant breeder's right in the member state in which the variety was first protected.

Article 55

The Minister shall make regulations on the basis of this law no later than in three months after the date when this law comes into force.

The Government of the Republic of Slovenia issues a decree on fees no later than one month after the date when this law comes into force.

The Office organises its operations within three months after this law coming into force. Until the official beginning of the Office's work, the tasks shall be done by the Ministry.

The Republic of Slovenia provides the premises and equipment as well as financial resources for the organisation and operation of the Office.

Article 56

On the date when this law comes into force in the Republic of Slovenia The following shall cease to be used:

a) provisions of the Law on Approval of New Varieties, the Permission to Introduce Foreign Varieties and the Protection of the Varieties of Agricultural and Forest Plants (Official Gazette SFRJ, No. 38/80 and 82/90) in connection with the protection of the varieties of agricultural and forest plants:

- from the chapter I. BASIC PROVISIONS: Article 1 in the part connected to the protection of new varieties and foreign varieties; point 4 of Article 2, second paragraph of Article 4 and Articles 7 to 10;
- chapter III. VARIETY PROTECTION (Articles 37 to 62);
- from chapter IV. PENAL PROVISIONS: Points 6 to 9 of the first paragraph of Article 63;
- from chapter V. TRANSITIONAL AND FINAL PROVISIONS: Article 66;

b) regulation of the Register of protected new domestic varieties and the Register of protected foreign varieties of agricultural and forest plants (Official Gazette SFRJ, No. 56/89);

c) regulation of the substance and data of the demand for the protection of the varieties of agricultural and forest plants (Official Gazette SFRJ, No. 56/89).

Article 57

This law shall come into force on the fifteenth day following its publication in the Official Journal of the Republic of Slovenia.