



THE CABINET OF MINISTERS OF UKRAINE

RESOLUTION

of 04 August 2023 No 813
Kyiv

On Amendments to the Resolution of the Cabinet of Ministers of Ukraine of August 19, 2002 No. 1183

The Cabinet of Ministers of Ukraine decrees:

To introduce the following amendments to the Resolution of the Cabinet of Ministers of Ukraine No. 1183 of August 19, 2002 "On Measures concerning Implementation of the Law of Ukraine "On Protection of Rights to Plant Varieties" (Official Gazette of Ukraine, 2002, No. 34, p. 1592; 2011, No. 61, p. 2439; 2022, No. 58, p. 3470).

**The Prime Minister of
Ukraine**

D. SHMYHAL

	APPROVED by the Resolution of the Cabinet of Ministers of Ukraine of August 04, 2023 No. 813
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AMENDMENTS

to the Resolution of the Cabinet of Ministers of Ukraine of August 19, 2002 No. 1183

1. Paragraphs 2 and 3 of the Resolution shall be excluded.
2. The Procedure for payment of fees for actions related to protection of rights to plant varieties, approved by this Resolution, shall be set forth in the following wording:

	"APPROVED by the Resolution of the Cabinet of Ministers of Ukraine of August 19, 2002 No. 1183 (as amended by the Resolution of the Cabinet of Ministers of Ukraine of August 4, 2023 No. 813)
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PROCEDURE

for Payment of Fees for Actions Related to Protection of Rights to Plant Varieties

1. This Procedure defines the mechanism for payment of fees for actions related to protection of plant variety rights (hereinafter referred to as the fees) and their amounts in accordance with the Law of Ukraine "On Protection of Rights to Plant Varieties" (hereinafter referred to as the Law), in particular, fees for:

filing and consideration of an application for a plant variety (hereinafter referred to as the application);

change of a plant variety name;

conducting a qualification examination of a plant variety;

state registration of a plant variety, issuance of copies or duplicates of security documents;

maintaining the validity of intellectual property rights to plant variety;

maintaining the validity of the property right to spread a plant variety;

other specific actions provided for by the Law.

2. In this Procedure the terms are used in the following meanings:

fee payer (hereinafter referred to as the payer) - individuals or legal entities, including foreigners and stateless persons, who pay fees under the application;

payer code - a code according to the EDPNOU (National State Registry of Ukrainian Enterprises and Organizations) for payers included in such a Register (resident legal entities and separate subdivisions of resident and non-resident legal entities), or a registration number of a taxpayer's account card or series (if any) and passport number (for individuals who, due to their religious beliefs, refuse to accept the registration number of a taxpayer's account card and have notified the relevant supervisory authority and have a note in their passport).

For foreigners (non-residents) and stateless persons, the payer code is a code assigned by the Competent Authority within two months from the date of submission of the first application by such persons to the Competent Authority, provided that such persons are not included in the EDPNOU or do not have a registration number.

Other terms shall have the meaning given in the Law and the Budget Code of Ukraine.

3. The fees shall be paid to the state budget.

4. Fees shall be set in the national currency.

5. Foreigners have the right to pay fees in national currency or foreign currency, namely euros or US dollars, at the official exchange rate of hryvnia to foreign currency set by the National Bank on the date of payment of the fee.

6. In case the payer is a non-profit institution or organization financed from the state budget, the fee shall be paid in the amount of 40 percent of the fee set by this Procedure, except for fees for maintaining the validity of intellectual property rights to a plant variety (patent validity) and for maintaining the validity of the property right to spread a plant variety, which shall be paid in the amount of 20 percent of the set amount per variety, provided that property rights to such varieties are acquired or maintained by a non-profit institution or organization financed from the state budget.

7. The funds from the payment of fees in the national currency by the payers shall be credited to the special fund of the state budget to the respective accounts opened by the expert institution in the Treasury and shall be accounted for as own revenues of budgetary institutions under the budget program under which the expert institution is financed.

8. Funds from the payment of fees in foreign currency by payers shall be credited to the current account of the expert institution opened in public sector banks. Funds from the sale or conversion of foreign currency shall be credited within three working days from the date of such sale or conversion to the account for accounting for own revenues of budgetary institutions opened by the expert institution in the Treasury.

9. The payment of fees shall be made by the payer through the payment systems of banking institutions on the basis of invoices or payment notices issued to the payer by the expert institution, or on its own initiative in accordance with the information notice on bank details for payment of fees published in official sources of information by the Competent Authority or the expert institution.

10. The payment of fees may be made by the payer using electronic payment systems, including those integrated into the electronic services of the payer's account of the information database of the Competent Authority or expert institution. In this case, the electronic payment system shall generate the payer's settlement documents confirming the payment of the relevant funds in accordance with the procedure established by law and ensure timely crediting of funds paid by the payer to the state budget.

11. Information on the details of the accounts of the expert institution that ensure the crediting of funds from the payment of fees shall be published in official sources of information by the Competent Authority or the expert institution.

12. The expert institution shall ensure the accounting and operational analytical records of the crediting of payments as fees from the payers and the accounting of documents on the payment of the relevant fees by maintaining an electronic personal account of the payer in order to confirm the payment of fees and their corresponding crediting or re-crediting on the request of the payer.

13. On the request of the Competent Authority, the expert institution shall, within five calendar days from the date of receipt of the request, submit to the Competent Authority in the form of an extract from the payer's personal account or from the account for recording own revenues of budgetary institutions opened by the expert institution at the Treasury, confirmation of payment of fees by the payers.

14. The payer's funds shall be accounted for on his/her personal account. The personal account of the payer is a part of the electronic system of the plant variety database, which includes information on the funds received on the accounts of the expert institution from the payment of fees by the payer and the amounts credited by the expert institution as fees for applications.

The personal account of the payer is an open database available for reading and copying information from it by the expert institution, the payer and the Competent Authority.

15. The information from the payer's personal account shall be recognized by the Competent Authority as an official confirmation of payment of the application fee by the payer.

16. The document by which the expert institution confirms the fact of payment of the fee to the Competent Authority is an extract from the account for crediting to the special fund of the state budget of own revenues of budgetary institutions opened in the Treasury or a banking institution, or the original payment document (payment instruction or cashier's check) received from the payer.

17. The document on the payment of the fee (payment instruction) shall contain in the section "Purpose of payment" the application number, and in the absence of the application number - the name of the variety (in the absence of the variety name - the selection code), the payer code (if any), the payment code or the name of the type of fee, the year for which the relevant fee is paid.

18. If it is impossible to determine the purpose of the received payment from the payer, on the request of the expert institution, the payer shall provide a written clarification of the purpose of such payment. The payer shall, within two months from the date of receipt of the request, provide the expert institution with clarification of the purpose of the payment made.

19. The date of payment of the fee shall be the date of crediting (re-crediting) of funds to the account of the expert institution or the date of crediting the fee from the balance of unused funds of the payer on his/her request.

20. The payer shall be responsible for the correctness of determining the fees to be paid, the completeness and timeliness of their payment.

21. If the fee is untimely credited to the account of the expert institution due to circumstances beyond the control of the payer, such fee shall be deemed to be paid in a

timely manner (paid without violations of the payment deadlines) if the payer provides the Competent Authority with documentary evidence of payment of such fee within the time limits specified in this Procedure.

Confirmation of timely payment of the fee within the permissible deadlines for its payment shall be a mark of the banking institution in the settlement document on the date of transfer of funds for payment of the relevant fee.

Confirmation of timely payment of fees by the payer shall be allowed only in respect of fees paid in national currency.

22. The document on the payment of fees, as well as the extension or renewal of the terms of payment of fees, shall be submitted to the expert institution together with the payer's application in any form.

23. The payer has the right to pay several fees in one payment. In this case, the payer shall submit to the Competent Authority a letter in any form specifying the fees paid, indicating the application numbers, plant variety names, and in the absence of names - the breeding code, payer code, payment codes or names of the types of fees, the year for which the relevant fee is paid, and the amounts of the fee paid for each fee separately.

24. In case of payment of the amount of funds exceeding the amount of the fee set by this Procedure, including payment of fees in foreign currency, the balance of unused funds shall be accounted for on the payer's personal account and, on his/her request, may be credited against payment of another fee, including for other applications.

25. In case of payment of the amount of funds less than the fee established by this Procedure, including payment of fees in foreign currency, the expert institution shall notify the payer of the need to pay in full, indicating the amount to be paid. The payer is obliged to make the appropriate payment or send a request for crediting the balance within 30 days from the date of receipt of the notice from the expert institution. Otherwise, the funds shall be refunded to the payer, in particular in case of payment of the fee in violation of the requirements of this Procedure.

26. The amount of the credited fee shall not include the cost of banking and any other services related to the payment of the fee or fees, including the crediting of foreign currency to the accounts of the expert institution. At the same time, the cost of all banking and any other services related to the payment or refund of the fee to the payer, including the difference between exchange rates, shall be paid at the expense of the payer and the balance of unused funds of the payer on the accounts of the expert institution.

27. From the account for crediting to the special fund of the state budget of own revenues of budgetary institutions, the expert institution shall transfer funds to its subordinate branches or structural subdivisions under its control in accordance with the approved estimates to cover the costs of actions related to the protection of plant variety rights. The transfer shall be made on the basis of payment instructions of the expert institution based on actual receipts and one group of own revenues under the relevant budget program.

28. The expert institution shall report on the results of its activities in the field of plant variety rights protection on a quarterly basis not later than the 15th day of the following month, as well as on the request of the Competent Authority.

The procedure for control, submission of reports and their list are set by the Competent Authority.

29. The fees related to filing and consideration of the application are set as follows:

the fee for filing and consideration of the application - UAH 1700;

the fee for making changes to the register of applications on changing the composition of breeders - UAH 1700;

the fee for extension of the terms for claiming the priority based on the date of filing of the previous application - UAH 1700;

the fee for the extension of the term to eliminate the inconsistency of the application and/or submission of a reasoned response to the conclusion on inconsistency - UAH 1700;

the fee for renewal of the term for elimination of the application's inconsistency and/or submission of a reasoned response to the conclusion (within 12 months from the date of expiration of such term) - UAH 1700;

the fee for filing a request to correct an error or to make changes to the application materials - UAH 1700.

30. The document on payment of the fee for filing and consideration of the application shall be submitted to the Competent Authority together with the application or within two months from the date of its submission.

31. The fees related to the name of a plant variety are set as follows:

the fee for extension of the term for submission of a reasoned response to the conclusion on non-compliance or objection to the proposed variety name - UAH 1700;

the fee for changing the approved variety name - UAH 1700;

the fee for changing the name of a variety after its approval in case if it is established that the name of the variety does not meet the requirements of Article 13 of the Law - UAH 1700;

the fee for prohibition of use of the previous variety name for other applicants in case of change of the variety name in another contracting party to the International Convention on the Protection of New Varieties of Plants - UAH 3400 for one year of prohibition of use of such name by other applicants in Ukraine.

32. The fees related to the qualification examination of plant varieties are set as follows:

the fee for qualification examination for compliance of a variety with the criteria of distinctiveness, uniformity and stability (by an expert institution) - UAH 6035;

the fee for the qualification examination for the suitability of a variety for spreading (by an expert institution) - UAH 15300;

the fee for qualification examination for compliance of the variety with the criteria of distinctiveness, uniformity and stability, as well as for the suitability of the variety for spreading (according to the applicant's data) - UAH 4250;

the fee for extension of the term for payment of fees for the qualification examination - UAH 850;

the fee for renewal of the term for payment of fees for qualification examination - UAH 1700.

33. The document on payment of the fee for the first year of the qualification examination on the compliance of a plant variety with the criteria of distinctiveness, uniformity and stability shall be received by the expert institution within two months after the payer receives a notice of the positive results of the application consideration.

The document on payment of such a fee for each subsequent year shall be received by the expert institution within two months after receiving the report on the results of the qualification examination on the compliance of the variety with the criteria of distinctiveness, uniformity and stability for the previous year.

34. In the case of qualification examination of a variety of hybrid type of creation, the fee shall be charged for the qualification examination of each component of the parental component of the hybrid, except for the parental components for which the expert institution has already conducted research as part of the hybrid, or as a separate object of the application with the official description of such parental component(s).

35. If the parental component is part of several hybrids, the fee shall be charged once. In this case, the total amount of the fee may not exceed threefold amount of the fee for the qualification examination of the plant variety's compliance with the criteria of distinctiveness, uniformity and stability.

36. The document on payment of the fee for the qualification examination of the suitability of a plant variety for spreading in Ukraine for the first year shall be received by the expert institution within two months after the applicant receives a notice of the positive results of the application consideration.

The document on payment of such a fee for each subsequent year shall be received by the expert institution within two months after receiving the report on the results of the qualification examination for the previous year.

37. If the payer has paid the fee for the qualification examination of a plant variety, but the qualification examination of such variety was not carried out at the initiative of the payer (applicant) in the relevant year after the approval of the program of field and laboratory studies of the qualification examination, the amount of the paid funds shall be refunded to the personal account of the payer of the fees, except for funds in the amount of 30 percent of the paid fee to compensate for the expenses of the expert institution for the preparation of the qualification examination. If the qualification examination of a variety was not conducted in the respective year due to circumstances beyond the control of the payer (applicant), the amount of the paid funds shall be refunded to the payer's balance in full upon his/her request.

38. The amounts of fees related to the state registration of plant varieties, issuance of copies or duplicates security documents are set as follows:

the fee for state registration of a variety - UAH 1700;

the fee for extension of the term of payment of the fee for state registration of a variety - UAH 1700;

the fee for renewal of the term of payment of fees for state registration of a variety - UAH 3400;

the fee for extension of the term for filing a notice on the attitude to the opposition to the state registration of a variety - UAH 1700;

the fee for renewal of the term for filing a notice on the attitude to the opposition to the state registration of a variety - UAH 3400;

the fee for issuance of a certified copy of a patent, certificate of state registration of a variety - UAH 500;

the fee for issuance of a duplicate of a patent, certificate of state registration of a variety, certificate of authorship for a variety - UAH 1700.

39. The document on payment of the fee for state registration of a plant variety shall be received by the Competent Authority within 30 days from the date of receipt by the payer of the expert opinion on the results of the qualification examination.

40. The amounts of fees for maintaining the validity of intellectual property rights to plant varieties are defined depending on the period of maintaining the validity of rights to varieties and are set as follows:

for the first - fifth year	UAH 2300
for the sixth - tenth year	UAH 5200
for the 11-15 year	UAH 7000
for the 16 th and each subsequent year	UAH 8700

The fee for the renewal of a patent, if paid within 12 months after the expiry of the established term, is increased by 50 percent.

41. The fee for maintaining the validity of intellectual property rights to a plant variety shall be paid for each year starting from the calendar year following the year of state registration of rights or state registration of the variety. The fee for maintaining the validity of intellectual property rights to a plant variety in the first calendar year following the year of state registration may be paid within the first six months of the respective year. The fee for the next year shall be paid within the last six months of the current calendar year.

42. The document on payment of the annual fee for maintaining the validity of intellectual property rights to a plant variety (patent validity) shall be received by the expert institution within two months from the date of payment of the fee.

43. The fee for maintaining the validity of intellectual property rights to a plant variety (patent validity) may be paid within 12 months after the expiry of the established term. In this case, the amount of the fee shall be increased by 50 percent, and the document on its payment shall be sent to the expert institution within two months from the date of payment.

44. The fee for maintaining the validity of the exclusive right of the patent owner in case of submission to the Competent Authority of an application for the willingness to grant permission to any person to use a plant variety (open license) shall be reduced by 50 percent starting from the year following the year of publication of such application. The document on payment of such fee shall be received by the expert institution within two months from the date of payment of the fee.

45. The amount of the fee for maintaining the validity of proprietary right to spread a plant variety are defined depending on the period of maintaining the validity of rights to varieties and shall be set as follows:

for the first - fifth year	UAH 2300
for the sixth - tenth year	UAH 5200
for the 11-15 year	UAH 7000
for the 16 th and each subsequent year	UAH 8700

46. The fee for maintaining the validity of the proprietary right to spread a plant variety shall be paid for each year starting from the calendar year following the year of state registration of rights or state registration of a variety.

47. The fee for maintaining the validity of the proprietary right to spread a plant variety in the first calendar year following the year of state registration shall be paid within six months of the respective year. The fee for the next year may be paid within the last six months of the current calendar year.

48. The document on payment of the annual fee for maintaining the validity of the proprietary right to spread a plant variety shall be received by the expert institution within two months from the date of payment.

49. The fee for maintaining the validity of proprietary right to spread a plant variety may be paid for five years. The paid amount of such fee shall not be refunded to the payer in case of early termination of the property right to spread the variety.

50. The fee for the maintaining the validity of the property right to spread a plant variety, which is a public domain variety or a common variety, shall be paid once only for the first year of maintaining the validity of property right to spread the variety, following the year of state registration of the variety.

51. The fee for maintaining the validity of the proprietary right to spread a plant variety may be paid within 24 months after the expiration of the established term. In this case, the amount of the fee shall be increased by 50 percent, and the document on its payment in the form of an extract from the payer's personal account shall be sent to the expert institution within two months from the date of payment of the fee.

52. The fee for entering data on issued licenses into the State Register of Plant Varieties Patents at the initiative of a party to the license agreement shall be set at the rate of 0.1 percent of the value of the issued license, but not less than UAH 1700.

The document on payment of the fee for entering data on issued licenses into the State Register of Plant Variety Patents shall be submitted to the Competent Authority together with the application for entering data into the State Register of Plant Variety Patents."