

LAW OF GEORGIA
ON NEW BREEDS OF ANIMALS AND VARIETIES OF PLANTS

Chapter I - General Provisions

Article 1

1. This Law regulates relations associated with the legal protection and the use of new breeds of animal and species of plant and applies to all new genus and variety of the new breed/species of agricultural animals and plants.
2. Methods of genetic engineering shall be prohibited to be used in animal breeding and plant propagating material.

Article 2

The terms used in this Law shall have the following meanings:

a) breeder:

a.a) a person who discovers and develops or breeds a new breed of animal and/or species of plant;

a.b) a person referred to in subparagraph (a.a) of this paragraph who assigns a work or task;

a.c) successor in title to a person referred to in subparagraph (a.a) of this paragraph;

b) application - a package of documents for the registration and issuance of a certificate for a new breed of animal and/or species of plant, prepared according to the requirements of this Law ;

c) certificate - a protective document certifying the registration of a new breed of animal and/or species of plant and breeders' rights according to this Law;

d) animal breed - a group of animals that, regardless of its protectability, has genetically determined constitutional-exterior characteristics, some of which are specific, and that distinguishes them from other groups of animals.

A breed may be presented by male or female individuals or breeding material;

e) Categories of protection of an animal breed - type, line;

f) breeding animal - animals intended for the reproduction and propagation of a breed ;

g) breeding material - breeding animal, its semen and embryos;

h) production animals - animals used for different purposes other than for reproduction of a breed;

i) initial breed - the breed selected by a breeder for the reproduction of a new breed of animal and/or species of plant;

j) species of plant - a plant grouping within a single botanical taxon of the lowest rank, regardless of whether the conditions for the grant of breeders rights are fully met, may be defined by the exposure of characteristics caused by a given genotype or combination of genotypes, and which is distinguished from any other plant grouping by the expression of at least one of those characteristics, and that may be considered as a unit with regard to its suitability for being propagated without change;

k) propagation material - seeds, plants or parts of plants intended for the propagation of a species of plant;

l) harvest - any kind of product gained as a result of the propagation of a species of plant;

m) the International Convention for the Protection of New Varieties of Plants adopted on December 2, 1961;

n) union - the Union for the Protection of New Varieties of Plants established by the International Convention for the Protection of New Varieties of Plants.

Article 3

1. The National Intellectual Property Centre of Sakpatenti (the Sakpatenti) ensures the granting of the breeders' right to breeders and informing the public through publication of an Official bulletin, about applications of new animal and/or plant varieties and about granting breeders' rights.

2. Testing for distinctiveness, uniformity and stability of a new breed of animal and/or species of plant in Georgia is performed by a person accredited by the legal entity under public law United National Body of Accreditation - Accreditation Centre according to the requirements and testing methods approved by the Ministry of Agriculture of Georgia, based on an order.



On the basis of the results of the said test, the Standing Board of Experts under the Ministry of Agriculture of Georgia shall issue an opinion on the distinctiveness, uniformity and stability of a new breed of animal and/or species of plant.

The Ministry of Agriculture of Georgia is responsible for implementation of these procedures.

3. The Sakpatenti may make a decision to grant breeders' rights for a new breed of animal on the basis of test results conducted by a competent body or a breeder of another country with regard to distinctiveness, uniformity and stability of the breed; and the Sakpatenti may make a decision to grant breeders' rights for a new species of plant on the basis of test results conducted by a competent body or a breeder of another member country of the Union with respect to the distinctiveness, uniformity and stability of the species.

Article 4

The effective period of breeders' exclusive rights from the day of registration of a new breed and/or Species by Sakpatenti shall be:

- a) 25 years for a new species of plant, except for the varieties referred to in paragraph (b) of this article;
- b) 30 years for new varieties (including rootstocks) of vine, woody plants, fruit trees, decorative plants, tea and subtropical cultures and forest plants;
- c) 30 years for a new breed of animal.

Chapter II - Breeder and License Holder

Article 5

- 1. Upon the registration of a new breed of animal and/or species of plant with Sakpatenti and the issuance of a certificate, a breeder acquires breeders' exclusive (property) rights.
- 2. If so requested by a breeder, the Sakpatenti is obliged not to publish its name.
- 3. If a new breed of animal and/or species of plant was discovered and developed or bred through the collaborative intellectual effort of several natural persons, each of them is considered to be a co-breeder.
- 4. Relations among co-breeders is determined by agreement.

Article 6

- 1. A breeder is entitled to register a new breed of animal and/or species of plant and obtain a certificate.
- 2. All breeders jointly, as well as each of them separately if any of them is refused the right in writing by co-breeders to register and obtain a certificate, shall have the right to register and obtain a certificate for a new breed of animal and/or species of plant discovered or improved through the collaborative intellectual effort of several natural persons.

Article 7

- 1. If the discovery, development or breeding of a new breed of animal and/or species of plant is related to the performance of official duties or a special task by an employee, the employer has the right to register a new breed of animal and/or species of plant and obtain a certificate, if the task covers breeding activities, unless otherwise provided for in an agreement between the employee and the employer.

If a holder of the certificate issued as a result of registration of a new breed of animal and/or species of plant is an employer, based on mutual agreement its employee is entitled to receive remuneration from the employer in an amount adequate to compensate for the use of the new breed of animal and/or species of plant.

- 2. If the discovery, development or breeding of a new breed of animal and/or species of plant is not related to the performance of official duties or a special task of an employee, the employee shall have a right to register a new breed of animal and/or species of plant and obtain a certificate.

In this case, from the day of filing an application, an employer shall enjoy the right of obtaining a licence to use a new breed of animal and/or species of plant and the privilege of purchasing breeders' exclusive rights derived from the registration of a new breed of animal and/or species of plant and the issuance of a certificate.

Article 8

If an employer refuses to register a new breed of animal and/or species of plant and obtain a certificate, its employee is entitled to register the new breed of animal and/or species of plant and obtain the certificate.



Article 9

If for one and the same new breed of animal and/or species of plant two or more applications are filed with the Sakpatenti at different times, the registration will be accepted and a certificate issued in the name of the first applicant.

Chapter III - Protection of New Animal and Plant Varieties

Article 10

1. A new breed of animal and/or species of plant may be registered and a certificate issued provided that it satisfies the protection criteria.
2. For a new breed of animal and/or species of plant, the protection criteria are :
novelty, distinctiveness, uniformity and stability.

Article 11

1. An animal breed is considered to be a novelty if, by the date of filing of the application, the breeding animal or breeding material of this breed has not been alienated for purposes of exploitation by a breeder with his/her consent and/or have not been otherwise transferred to a third party .
2. The novelty of an animal breed will not be affected if a breeding animal reproduced from this breed or breeding material is used by another person to:
 - a) damage the breeder;
 - b) conduct a competition or production testing of the animal breed ;
 - c) permit the distribution, determine the quality or conduct any other testing of the animal breed.
3. The novelty of animal breed will not be affected if a surplus product obtained in the cases referred to in Article 2(b) and (c) is used as a product derived from the breed of animal without recognition.

Article 12

1. A species of plant is considered to be novel if, by the date of filing the application, propagating material of this species has not been alienated for commercial purposes by a breeder with his/her consent and/or has not been otherwise transferred to a third party.
2. Notwithstanding the requirements of paragraph 1 of this article, breeders' rights may be granted for a species of plant which at the date of entering this Law into force is no longer new and if an application has been filed with the Sakpatenti within a year from the date of entering of this Law into force, if one of the conditions listed below is satisfied:
 - a) A species of plant was registered in the National Catalogue of Plants Admitted for Trade;
 - b) A species of plant was protected by a breeders' right in any member country of the Union, or an application was filed in any member state of the Union and breeders' rights were granted as a result of filing the application.
3. The effective period of the rights granted in accordance with paragraph 2 of this article, is calculated from the date of entry of the species into the catalogue referred to in sub paragraph (a) of paragraph 2 of this article, or from the date of granting of the breeders' rights referred to in sub paragraph (b) of paragraph 2 of this article.

In respective cases, the earliest of these dates must be used.

4. If breeders' rights are granted in accordance with the requirements of this article, the breeder is obliged to grant a licence for exploitation the new breed of animal and/or species of plant on reasonable conditions in order to enable a third party to continue exploitation of the species of plant which he/she had started in good faith before the filing of the application by the breeder with the Sakpatenti.

Article 13

A new breed of animal and/or species of plant is considered to be distinctive if it is clearly distinguished from any other breed/species whose existence was a matter of common knowledge at the time of filing the application with the Sakpatenti; in particular, filing an application for the granting of breeders' rights or for entering the new breed of animal and/or species of plant into the register or catalogue of new animal breeds and/or plant varieties, in any country, makes the breed/species a matter of common knowledge from the date of application if as a consequence of filing the application breeders' rights are granted or the breed/species is entered into the register or catalogue of new animal breeds and plant varieties .



Article 14

1. A new animal breed is considered to be similar if animals of this breed are sufficiently similar in main inherent-exterior characteristics despite the peculiarities of its propagation.
2. A new species of plant is considered to be similar if it is sufficiently similar in main inherent-exterior characteristics despite the peculiarities of its propagation.

Article 15

1. A new animal breed is considered to be stable if its basic characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each cycle.
2. A new species of plant is considered to be stable if its basic characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each cycle.

Chapter IV - Examination, Publication, Registration and Granting of Certificates for New Plant and Animal Varieties

Article 16

An application for registration of a new breed of animal and/or species of plant iety and for the issuance of a certificate by the Sakpatenti is filed by a breeder personally or through his/her representative.

Article 17

1. The application shall include:
 - a) an application indicating the name and address of a breeder;
 - b) the proposed denomination of a new breed of animal and/or species of plant;
 - c) in the case of a new animal breed , the description of the new animal breed, main zoological, inherent-exterior characteristics and household characteristics, and in the case of a new species of plant, the description of the new species of plant, main morphological, biological and botanical characteristics;
 - d) photographic image of the new breed of animal and/or species of plant;
 - e) a written agreement of the breeder to supply to the accredited person determined under Article 3(2) of this Law, samples of breeding material of the animal breed or propagating material of the species of plant, within the prescribed time limit and quantity, free of any charges.
 - f) indication of the date, when breeding animals or breeding material of the respective animal breed or propagating material of the respective species of plant were sold or otherwise transferred by the breeder or with his/her consent to another person for the purpose of exploitation.
2. One application is filed for each new breed of animal and/or species of plant.
3. If an application is filed by a representative, within one month after the date that the application was filed, a document authorizing the representation must be attached to the application.
4. The application has to be filed in official language of Georgia; other application materials may be filed in any other language.

If the application materials are filed in a foreign language, the applicant must, within three months, submit a Georgian translation.

5. If the application is filed by a successor in title, within one month after the date that the application is filed, a document authorizing succession must be attached to the application.
6. if the documents and materials defined in paragraphs 3-5 of this article are not submitted within the appropriate time limits, the application process is terminated

Article 18

If before filing an application with the Sakpatenti, in the case of a new animal breed, it was submitted to a competent body of another country, and in the case of a new species of plant, it was submitted to a competent body of a member country of the Union, the respective country, the new name of the breed of animal and/or species of plant, the application number and the filing date must be provided.



Article 19

1. If a new animal breed described in an application filed with the Sakpatenti is protected and/or permitted for distribution in another country, an applicant is obliged to attach to the application a certified copy and Georgian translation of the official document issued by a competent body of the respective country, reflecting test results regarding the distinctiveness, uniformity and stability.
2. If a new species of plant described in an application filed with the Sakpatenti was submitted to another member country of the Union, an applicant is obliged to attach to the application a certified copy of the first application and its Georgian translation.

Article 20

1. The name of the new breed of animal and/or species of plant in the application must be proposed by the breeder.
2. The name of the animal breed shall indicate its breed, enable its easy identification, be short, be distinguishable from every denomination of other animal breed of the same or allied zoological species, and must not contradict the commonly recognised norms of morality, must not insult religious beliefs, must not consist of figures only except when the use of figures is an established practice, and must not cause confusion of characteristics, origin, significance and identity of the new animal breed and the person of the breeder.
3. A species of plant must be designated by a name that further will be the generic name of this species and will enable its easy identification.

It must be distinguishable from the name of every other species of plant, and must not contradict commonly recognised norms of morality, must not insult religious beliefs, must not consist of figures only except when the use of figures is an established practice, and must not cause confusion of characteristics, origin, significance and identity of the new species of plant and the person of the breeder.

4. If the name of the new breed of animal and/or species of plant does not comply with the requirements of paragraphs 2 or 3 of this article, or if a prior right of a third party prevents the use of the name of this breed/species, the breeder is obliged to present a new name within a month after receipt of notification, in accordance with paragraph 5 of this article.
5. Any person who, in the territory of Georgia, offers for sale or sells an breed of animal and/or species of plant that is protected in Georgia, is obliged to use the name of this breed/species even after expiration of the breeders rights, except when, in accordance with paragraph 4 of this article a pre-existing right prevents such use.
6. If a breed of animal and/or species of plant is offered for sale or is on sale, the registered name of the breed/species is permitted to be associated with a trademark, a trade name or any other similar designation, provided that the plant or animal name is easily identifiable.

Article 21

An application is deemed to be filed with the Sakpatenti from the day of submission of the following materials:

- a) an application;
- b) the proposed name for the new breed of animal and/or species of plant;
- c) the description of the new breed of animal and/or species of plant.

Article 22

1. If two or more applications for one breed of animal and/or species of plant are filed with the Sakpatenti, priority is given to the application filed earlier.
2. Breeders desiring to enjoy the priority established under a treaty on the protection of new animal breeds signed with another country are obliged to file an application with the Sakpatenti within 12 months after filing the application in the contracting country of this treaty.
3. Breeders desiring to enjoy the priority established under the International Convention for the Protection of New Plant Varieties are obliged to file an application with the Sakpatenti within 12 months after filing the application in the contracting country of this Convention.
4. In an application filed with the Sakpatenti the date of filing an application in another country must be indicated.

An applicant is obliged to present within six months after the day of filing the application with the Sakpatenti a copy of the application certified by the competent body of the country where it was first filed and its translation into Georgian.

5. In the case of a new species of plant, a breeder is entitled to present to the Sakpatenti any information, document or material necessary for the examination of the application, during two years after the expiry of priority term, and if the first application is rejected or withdrawn, after the day of such rejection or withdrawal.

Article 23

The Sakpatenti examines the formal requirements of an application, including verification of completeness and execution of the application materials, including the confirmation of the filing date of application.



Article 24

1. The Sakpatenti confirms the filing date of application within two working days after the day of filing.
2. Formal requirements of the application are examined within one month after the day of filing the application.
3. If an application does not comply with the requirements of Articles 17 and 22 of this Law, during the examination of formal requirements the Sakpatenti may request a breeder to correct the deficiency and submit appropriate materials.

A breeder is obliged to correct deficiencies and submit appropriate materials within a month after the day of receipt of notification.

4. If a breeder fulfils the requirement of paragraph 3 of this article, the date of fulfilling the requirement is deemed to be the date of filing of the application.

If a breeder fails to fulfil this requirement, the application will not be deemed as filed and the application materials will be returned to the breeder.

5. If an application does not comply with the conditions for the examination of formal requirements, processing of the application will be terminated and the applicant will be notified.

Article 25

1. If it is confirmed that the application complies with the conditions for the examination of formal requirements, the Sakpatenti will publish the data of the new breed of animal and/or species of plant in the Official Bulletin and make the decision to transfer the new breed of animal and/or species of plant for examination.

2. The following is published in the Official Bulletin:

- a) the data of a breeder;
 - b) the date of filing the application;
 - c) proposed name of the new breed of animal and/or species of plant;
 - d) the brief description of the new breed of animal and/or species of plant;
3. A description of the new breed of animal and/or species of plant will be displayed to the public for information.

Article 26

Any person is authorised to submit a written objection to the Sakpatenti, within three months after publication of a new breed of animal and/or species of plant data in the Official Bulletin, if:

- a) the new breed of animal and/or species of plant does not meet the criterion of protectability ;
- b) the description of the new breed of animal and/or species of plant does not provide a complete description for evaluation of the breed/species;
- c) false data is presented in the description of the new breed of animal and/or species of plant.
- d) the priority requested, according to Article 22(2) of this Law for the new breed of animal and/or species of plant described in the application is without merit based on an application filed for this breed of animal and/or species of plant in another country .

Article 27

1. Within a week after receipt of an objection, the Sakpatenti will transfer the objection materials for providing a decision to the accredited person determined in Article 3(2) of this Law

Copies of the objection materials will be transferred to the applicant.

2. The Sakpatenti, with regard to the objection, will make a decision based on the opinion of the accredited person determined in Article 3(2) of this Law.
3. Procedures and terms for consideration of an objection is determined by the Ministry of Agriculture of Georgia together with the Sakpatenti.

Article 28

1. Within two weeks after the examination of official requirements is completed and the application materials are published in the Official Bulletin, a



new animal breed will be transferred for testing to the accredited person determined in Article 3(2) of this Law.

2. A new breed of animal and/or species of plant will be tested for distinctiveness, uniformity and stability.

3. A breeder is entitled to request an extension of procedural terms of consideration of the application and if he fails to comply with the terms, the return of these terms according to the established rule.

4. A breeder at any stage of consideration of its application is entitled to withdraw the application or request termination of the application proceedings.

Article 29

1. Results of a new breed of animal and/or species of plant tests conducted in Georgia will be executed by an accredited person determined in Article 3(2) of this Law and within a month will be transferred to the Sakpatenti.

2. If the decision on the new breed of animal and/or species of plant test is positive, the person who performed the test together with the applicant, will make a description of the breed of animal and/or species of plant and transfer it to the Sakpatenti along with the decision.

3. The data of the Test results is a commercial secret of the applicant; transfer of this data to a third party without agreement of the Sakpatenti and the applicant, is considered to be a violation (of law or the breeder's rights?) and creates liability according to the legislation of Georgia.

Article 30

1. In the case of a positive decision on the new breed of animal and/or species of plant testing, the Sakpatenti shall make a decision to register the new breed of animal and/or species of plant.

The Sakpatenti shall record the name, description and other data of the new breed of animal and/or species of plant in the Register of New Animal Breed and Plant Varieties and issue a certificate, which is a document certifying the breeder's as exclusive property.

2. The following will be recorded in the Register of New Animal breed and Plant Varieties:

a) the genus and variety of the new breed/species;

b) the name of the new breed/ species;

c) the description and photographic image of the new breed/ species;

d) the name and address of the breeder;

e) the number and date of the registration.

3. The form of a certificate issued for a new breed of animal and/or species of plant shall be defined by the Sakpatenti.

4. In the Official Bulletin, Sakpatenti will publish the following:

the genus and species of the new breed of animal and/or species of plant, name of the new breed of animal and/or species of plant, the description and photographic image of the new breed of animal and/or species of plant, the name and address of the breeder, the registration number and date.

5. Any person is entitled to review the Register of New Animal breed and Plant Varieties, according to established rules.

Article 31

1. If an application filed with the Sakpatenti concerns a breed of animal protected by breeders' rights in another country, this breed of animal is not subject to testing for distinctiveness, uniformity and stability in the territory of Georgia.

For such breed, a certified copy of the official document confirming the breeders' rights, issued by the competent body of the respective country, and its translation into Georgian will be submitted to the Sakpatenti along with the application within two months after the day of filing the application.

For such an application, only an examination of formal requirements is conducted.

2. If an application filed with the Sakpatenti concerns a species of plant protected by breeders' rights in another member state of the Union, this species of plant shall not be subject to testing for distinctiveness, uniformity and stability in the territory of Georgia.

For such breed, a certified copy of the official document confirming the breeders' rights, issued by the competent body of the respective country, and its translation into Georgian will be submitted to the Sakpatenti along with the application within two months after the day of filing the application.

For such an application, only an examination of formal requirements is conducted.

3. If an application filed with the Sakpatenti concerns a breed/species that has already been tested for distinctiveness, uniformity and stability by an accredited person determined in Article 3(2) of this Law and a positive decision has been issued, for such application only an examination of requirements and of formal requirements related to the novelty and name of the breed/species shall be conducted.



4. If the applications referred to in paragraphs 1-3 of this article comply with the conditions for formal requirements of examination, the Sakpatenti will make a decision to register the new breed of animal and/or species of plant, record the data in the Register of New Animal Breed and Plant Varieties, issue a certificate and publish the registration data in the appropriate Official Bulletin.

Article 32

According to Article 25 of this Law, from the day of publication of the new breed of animal and/or species of plant data in the Official Bulletin to the day of registration, an applicant is provisionally granted the same breeders' rights he/she would have in the case of registration.

If from the day of publication of the new breed of animal and/or species of plant data to the day of registration, a third party has performed acts that require the breeder's consent, the breeder is entitled to request equitable remuneration only after registration of the new breed of animal and/or species of plant.

Chapter V - Rights and Liabilities of the Holder of Breeders' Exclusive Rights

Article 33

1. A breeder's exclusive right entitles the holder to perform, authorise and/or prohibit following acts with respect to the new breed of animal and/or species of plant:

- a) production and reproduction (in the case of a new species of plant)/reproduction (in the case of a new animal breed);
- b) conditioning for the purpose of propagation (in the case of a new species of plant);
- c) offering for sale, alienating or transferring the rights in any other way;
- d) exporting;
- e) importing;
- f) stocking of propagation material for the purposes listed in subparagraphs (a-e) of this paragraph (in case of a new species of plant);
- g) stocking of breeding material for the purposes listed in subparagraphs (a-c) of this paragraph (in case of a new animal breed);

2. A breeder may authorize the acts referred to in paragraph 1 of this article with certain conditions and limitations.

3. A breeder's exclusive right also applies to breeding material obtained by another person from an animal breed protected by a certificate, the animal derived from this material and the products obtained from this animal.

4. Taking into account the requirements of Article 37 of this Law, the acts referred to in paragraph 1 of this article with respect to harvested material, including an entire plant and parts of a plant obtained through the unauthorised use of propagating material of a species protected by a certificate, shall require the authorization of the breeder, if the breeder had no opportunity to exercise his/her exclusive right in relation to said propagating material.

5. A breeders' exclusive right also applies to:

- a) a species of plant that is essentially derived from a species of plant protected by a certificate, as long as the protected species of plant is not itself an essentially derived species;
- b) a species of plant that is not clearly distinguishable from a species of plant protected by a certificate, according to Article 13 of this Law;
- c) a species of plant whose production requires the repeated use of the species of plant protected by a certificate.

Article 34

An animal breed is considered to be derived from another animal breed if:

- a) it is derived from an initial breed or a breed that is itself derived from the initial breed, and if the main characteristics of the genotype or combination of genotypes of the initial breed are clearly expressed in these animal breeds; and it is clearly distinguishable from the initial breed by one or more characteristics that are able to be described;
- b) besides the variation characteristic in the propagation process, the main characteristics of a genotype, or a combination of genotypes of the initial breed, are completely expressed in it.

Article 35

1. A species of plant shall be considered to be essentially derived from another species of plant if:



a) it is mainly derived from the initial species or from a species that is itself derived from the initial species and it maintains the expression of essential characteristics, which is resulted from the genotype or a combination of genotypes of the initial species;

b) it is distinguishable from the initial species by external characteristics except for a variation characteristic to the propagation process differences, and it conforms to the initial species in the expression of essential characteristics that result from a genotype or combination of genotypes of the initial species;

2. Essentially derived varieties may be obtained:

by the selection of a natural or induced mutant, a somaclonal variant, or by selection of the plant from the initial species of plant, backcrossing, or transformation by genetic engineering.

Article 36

A breeder's exclusive right to a new breed of animal does not apply to:

a) acts performed for private use of the new animal breed and for non-commercial purposes;

b) acts performed for experimental breeding purposes.

Article 37

1. A breeder's exclusive right to a new species of plant does not apply to:

a) acts performed for the private use of the new species of plant and for non-commercial purposes;

b) acts performed for experimental purposes.

c) act performed for the purpose of developing new varieties, except in the cases provided for in Article 33(4) of this Law, as well as acts determined in paragraphs 1-3 of that article.

2. Taking into account the legitimate interests of a breeder, the Ministry of Agriculture of Georgia is authorised to restrict, within reasonable limits, a breeder's right regarding any species, in order to permit farmers to use for propagation purposes on their land propagation material that they have obtained by harvesting a species protected by a certificate on their land, or regarding aspecies, covered by Article 33(5)(a) or (b) or by paragraph 1 of this article.

Article 38

1. A breeder's exclusive right to a new species of plant does not apply to acts related to any material of the species protected by a certificate, or any material derived from this material, that is included into civil circulation by the breeder or with his/her consent in the territory of Georgia, unless these acts are related to:

a) further propagation of a species protected by the certificate;

b) export of the plant material of a species protected by a certificate that enables propagation of this species of plant into a country that does not protect the varieties of the genus and species to which the species belongs, except when the material is exported for the purposes of final consumption.

2. For the purposes of paragraph 1 of this article, "material" in relation to a species has the following meanings:

a) propagating material of any kind;

b) harvested material, including an entire plant or parts of a plant ;

c) any product made from the harvested material.

Article 39

A breeder is obliged to ensure throughout the period of validity of its exclusive right maintenance of the breeding material of the breed of animal or propagating material of the species of plant, that can produce the breed of animal and/or species of plant having characteristics indicated in the description of the new breed of animal and/or species of plant.

Chapter VI - Declaring a New Breeds of Animal and Species of Plant Registration and Certificates Void and Invalid

Article 40



Upon the request of an interested person, a new breed of animal and/or species of plant registration and certificate may be declared void from the day of registration if it is established that at the time of making the decision to register and issue a certificate for the new breed of animal and/or species of plant:

- a) breed of animal and/or species of plant did not comply with the requirements of Articles 12 and 13 of this Law;
- b) the breeder's right was granted on the basis of information and documents furnished by the breeder, and the conditions specified for a new breed of animal and/or species of plant in Articles 14 or 15 of this Law, were not satisfied at the time of granting breeder's rights;
- c) the breeder's right was granted to a person who was not entitled to a grant of the right, except when he/she transferred this right to a person who was entitled to obtain the grant of a breeder's right according to the procedures established by this Law.

Article 41

1. Upon the request of an interested person, the new breed of animal and/or species of plant registration and certificate may be declared invalid from the day of making this decision if it is established that:

- a) breed of animal and/or species of plant no longer complies with the requirements specified for the new breed of animal and/or species of plant in Article 14 or 15 of this Law;
- b) the breeder failed to submit within the prescribed time limits information, documents or material necessary to verify the maintenance of the breed/species upon the request of the Ministry of Agriculture of Georgia on the basis of Article 39 of this Law, ;
- c) the breeder failed to satisfy the requirements established to retain his/her rights;
- d) if the name of the breed of animal and/or species of plant was cancelled after granting breeders' rights to the breeder and the breeder did not propose another appropriate name.

2. The registration and certificate of a new breed of animal and/or species of plant may be declared void or invalid on the basis of a written request submitted to the Sakpatenti by the breeder.

3. The Sakpatenti will record the data regarding the declaration of a new breed of animal and/or species of plant registration and certificate as void and invalid in the Register of New Breed of Animal and/or Species of Plant and this information will be published in an appropriate Official Bulletin.

Article 42

On the basis of a written request -submitted to the Sakpatenti during the period of validity of a new breed of animal and/or species of plant registration, breeders are authorised to make changes or additions to the registered data only with respect to the address of the breeder or his/her representative.

Chapter VII - License for Use of a New Breed of Animal and/or Species of Plant

Article 43

- 1. A licensor (breeder) is authorised to grant a license for use of a registered new breed of animal and/or species of plant to another person (licensee).
- 2. Granting a license for use of a new breed of animal and/or species of plant is permitted for a new breed of animal and/or species of plant that is allowed to be distributed in the territory of Georgia.
- 3. The license may be simple or exclusive.

4. By means of a simple license agreement, a licensor transfers to the licensee the right of using a new breed of animal and/or species of plant.

Moreover, the licensor retains all exclusive rights and the right to enter into other simple license agreements.

5. By means of an exclusive license agreement, a licensor transfers to the licensee the right of using a new breed of animal and/or species of plant.

Moreover, the licensor during the period of validity of an exclusive licence agreement, the licensor loses the exclusive rights transferred by this agreement and the right to enter into other licence agreements. .

6. A license agreement is made in writing and provides:

accurate data on the new breed of animal and/or species of plant, types of use of the breed/species, the period of validity and territorial scope of the agreement, the amount of remuneration or the procedure and term for estimating the amount of remuneration, as well as other conditions that are considered essential by the parties.

7. The right to use a new breed of animal and/or species of plant in any way not directly provided for in a licence agreement belongs to the licensor.

8. The licensee is prohibited to assign rights derived from a license agreement or to grant a sub-license unless that is directly provided for in the agreement.



Article 44

1. A compulsory license may be issued upon the request of any interested person only for the purposes of satisfying the public interest.
2. In the case of a new breed of animal and/or species of plant, a compulsory license will be issued on the basis of a recommendation given by the National Board for Animal Husbandry and Seeds under the Ministry of Agriculture of Georgia, by decision of the Minister of Agriculture of Georgia.
3. A compulsory license is issued only when an interested person previously made an attempt to obtain a license from the breeder under reasonable conditions and terms but his/her attempt was unsuccessful.
4. A decision to issue a compulsory license will define the scope of using the new breed of animal and/or species of plant, the effective period of the compulsory license, the rights and obligations of the breeder and the licensee and the amount of remuneration.

The decision to issue a compulsory license is legalised by order of the Minister of Agriculture of Georgia.

5. The effective period of a compulsory license agreement will be extended if a verification performed by the Ministry of Agriculture of Georgia proves that the conditions of the license agreement are being performed and an extension is necessary.
6. If the verification performed during the effective period of compulsory license agreement proves that there are no grounds for the compulsory license agreement to exist, the compulsory license agreement will be terminated by an order of the Minister of Agriculture of Georgia.
7. In case of granting a compulsory license to a breeder, the breeder must receive equitable remuneration.

Chapter VII - Violation of a Breeder's Rights and Liability

Article 45

The use of a new breed of animal and/or species of plant by a third party in contradiction to the requirements of this Law is considered as a violation of the breeders' rights and creates a liability according to the legislation of Georgia.

Chapter IX - Permission for the Distribution of Seeds and Planting Materials in Georgia

Article 46

1. Seeds and planting material are permitted to be distributed in Georgia:
 - a) by a certificate of quality;
 - b) by a certificate of phytosanitary.
2. Additional conditions for the distribution of seeds and planting material in Georgia will be determined by an ordinance of the Government of Georgia.

Chapter X - Transitional and Final Provisions

Article 47

1. Within three months after the entry into force of this law, the Ministry of Agriculture of Georgia with the Intellectual Property National Centre - the Sakpatenti shall prepare and approve:
 - a) the objection procedure for interested persons regarding the publication of the new animal breed data, the procedure for consideration of an application and extension of the procedural terms, procedural terms for termination and restoration and the procedure for issuing compulsory licenses;
 - b) the objection procedure for interested persons regarding the publication of new species of plant data, the procedure for consideration of an application and extension of the procedural terms, procedural terms for termination and restoration and the procedure for issuing a compulsory license ;
2. The Ministry of Agriculture of Georgia shall ensure approval of the requirements and testing methods for the distinctiveness, uniformity and stability of a new animal breed, taking into account international practices.
3. The Ministry of Agriculture of Georgia shall ensure approval of the requirements and testing methods for the distinctiveness, uniformity and stability of a new species of plant, taking into account international practices.



4. The Ministry of Agriculture of Georgia shall ensure the establishment of a Standing Board of Experts and the approval of its Statute on the basis of Article 3(2) of this Law.

5. Until 1 March 2011, the ordinance of the Government of Georgia on the Approval of Additional Conditions for the Distribution of Seeds and Planting Materials in Georgia shall be adopted.

Article 48

1. Upon the entry of this Law into force, the following shall be considered invalid:

- a) the Law of Georgia on the Protection of New Animal Varieties of 29 December 2006 (Legislative Herald of Georgia, No4,12.1.2007, Art.60);
- b) the Law of Georgia on the Protection of New Plant Varieties of 29 December 2006 (Legislative Herald of Georgia, No4,12.1.2007, Art.61);
- c) the Law of Georgia on Breeding Animals of 5 September 1996 (Official Gazette of the Parliament of Georgia, No22-23, 17 October 1996, p.43);
- d) the Law of Georgia on Permitting Varieties of Agricultural Cultures for the Distribution, and on Quality Seeds and Planting Materials (Legislative Herald of Georgia, No29(36),1999, Art.157).

2. Subordinate normative acts issued on the basis of the legislative acts referred to in paragraphs (a) and (b) of this article shall remain legal until their conformance with this Law.

Article 49

This Law shall enter into force upon its promulgation.

President of Georgia

M. Saakashvili

Tbilisi

15 December 2010

No 4066-65

