

REPUBLIC OF LITHUANIA
LAW
ON THE PROTECTION OF PLANT VARIETIES
AND SEED CULTIVATION

FIRST SECTION
GENERAL PROVISIONS

Article 1. Purpose of the Law

1. The goal of the law is law-based regulation of the relations of natural and legal persons in creating and researching plant varieties, in propagating and disseminating their seeds and seedlings.

2. This Law shall be applied for the protection of the registered varieties of plants grown, propagated and disseminated in the Republic of Lithuania, and the rights of their authors and owners.

Article 2. The Basic Concepts Employed in the Law

1. Variety denotes a newly - created or a genetically stable group of plants growing freely in natural habitat surroundings, marked by the same (related) biological and economic characteristics, maintained through plant propagation by generative or vegetative means, differing from other varieties of the same plant by at least, one clearly identifiable or describable characteristic. A variety may be represented also by one plant or a part thereof, if this part may be used to obtain a complete plant of that variety. The categories of a variety include clones, lines, heterozygous hybrids of the first generation and populations.

2. Seed and seedlings denote plants or the parts thereof, used in restoring and propagating the plants of the same variety.

3. Author of a variety means one or more persons, who have created a new variety, or have identified a new one among the plants growing freely in their natural habitat surroundings, which meets the requirements contained in Article 9 of this Law.

4. Owner of a variety denotes a natural or legal person, who has been awarded the rights of ownership in accordance with the requirements of Article 4 of this Law.

5. Register of Plant Varieties denotes the records of plant varieties registered and protected in the Republic of Lithuania.

6. License Agreement denotes a written agreement with a natural or legal person, granting these the right to use the variety for propagation and dissemination of its seeds and seedlings.

7. Seed Certificate is a document certifying the names of the seed kind and variety, category (reproduction), the weight of the seed shipment and indices of seed quality.

8. Seedling Certificate is a document containing the names of the seedling kind and variety, category (reproduction), amount of the seedling shipment (units), (units) and quality indices.

9. Phytosanitary Certificate denotes a document denoting the phytosanitary condition of plant production.

Article 3. State Management of Seed Cultivation and Protection of Plant Varieties

1. Taking into account the specificity of this work, the Ministry of Agriculture and Forest Economy (amended 10 June 1997) shall implement the state management of seed cultivation and protection of plant varieties in the Republic of Lithuania.

2. The Centre for State Research of Plant Varieties (further - Centre for Variety Research), which belongs to the Ministry of Agriculture and Forest Economy (amended 10 June 1997) sphere of regulation, shall register the new varieties of plants, issue protection documents of varieties, perform plant value research and other functions denoted in this Law.

3. Taking into account the specificity of this work, the structure of all of the state management services of seed cultivation, shall be established by the Ministry of Agriculture and Forest Economy (amended 10 June) .

4. The services of state management of seed cultivation and plant variety protection shall be supported from the State Budget.

Article 4. The Author and Owner of the Variety

1. One or several natural persons, who have created or identified a new variety from the plants freely growing in natural habitat surroundings, shall be considered the author of the variety.

2. In accordance with this Law, the owner of the variety may be:

1) a natural person, who has independently created or identified a new variety from the plants freely growing in their natural habitat, or by having participated in its creation or selection process, with the exception of the instances indicated in item 2 Part 2;

2) a legal person (science or learning institution, seed cultivation firm, enterprise or another organisations), where one or several natural persons created or identified a new variety, in accordance with a work contract or in the performance of their office duties. In this instance, a natural person, namely the author, shall have the right to a portion of the income (no less than 3 per cent), received by the owner of a variety for the sale of variety seed or seedlings or a licence for the propagation thereof;

3) a successor or heir to the rights of variety ownership from a natural or legal person.

Article 5. Name of the Variety

1. A name shall be given to a newly-created or identified variety. It must be original, short (not to exceed two words), non repetitive and in keeping with the requirements of international plant nomenclature. The name of a variety may not consist of numbers solely, be misleading, and the same as that of plant varieties of the same kind and related kinds.

2. If the name being proposed in an application to register a new name, submitted to the Centre for Variety Research, fails to meet the aforementioned requirements, the Centre for Variety Research shall have the right to demand to have it changed.

3. The registered name of the variety shall remain, following the expiration of its protection term. In cases of exception, the name may be changed, provided the Centre for Variety Research agrees with this.

SECOND SECTION

REGISTRATION OF A NEW VARIETY. PROTECTION OF VARIETIES

Article 6. Submission of an Application for Registration of a New Variety

1. An application which is a written request to register a new variety, shall be submitted to the Centre for Variety Research. The owner of the variety from any state or an authorised representative of the owner shall have the right to submit such an application. If the variety belongs to several owners, one application shall be submitted.

2. The Ministry of Agriculture and Forest Economy (amended 10 June 1997) shall establish a list of application documents and the procedure of their submission.

3. The submission of an application to the Centre for Variety Research shall not limit the right of an owner to submit an application to register a new variety to an appropriate institution of another state. The same name shall be used for the variety in the submitting of applications to register the same variety in several places.

Article 7. The Priority of an Application

1. The priority of submitting an application to register a new variety shall be established in accordance with the time of submission. The owner of a variety shall have the right to submit a first application in any state.

2. If prior to submitting the application to the Centre for Variety Research to register a new variety, an application had been submitted to register the same variety in one of the states who are members of the International Convention on the Protection of New Varieties, the priority date shall be accorded to the first application, per request of the applicant. In this case, the application must be submitted to the Centre for Variety Research, no later than during a 12-month period from submission of the first application, while a copy of it, authorized by the responsible institutions of the corresponding state (including a translation into the Lithuanian language), shall be submitted no later than within a 3-month period from the submission of this application.

Article 8. Expert Investigation of the Application

1. The Centre for Variety Research shall perform an expert examination of the application within a 1-month period. Priority of the application shall be established, and an assessment shall be made of whether requirements are being met by the name of the variety and all of the submitted documents shall be verified.

2. Following acceptance of the application, the applicant shall be advised of this and this shall also be published in one of the agricultural newspapers or journals, or in a special edition.

3. Every interested person may express his claims to the Centre for Variety Research, within 3 months of the publication of such information, in the press. The Centre for Variety Research must examine these within a 2-month period and issue a substantiated explanation to the applicant, in writing.

Article 9. The Conditions for the Registration of a New Variety

1. The variety shall be registered upon establishing that it meets the requirements of newness, distinctiveness, similarity and stability.

2. The variety shall be regarded as new if:

1) up to the time an application is submitted to the Centre for Variety Research, in order to register a new variety, the seeds and seedlings or other plant parts have not been sold or otherwise used for more than 1 year in the Republic of Lithuania with permission of the owner, excepting in instances, when this was being done for the purpose of scientific experimentation or for the creation of a stock of the propagated material;

2) up to the time an application was submitted to the Centre for Variety Research or was otherwise being disseminated on the territory of any other state with the permission of the owner, for more than:

a) 6 years, if these were woody plants;

b) 4 years, if these were other plants.

3. A variety shall be deemed exclusive, if it shall differ by one noticeable characteristic at least from the other varieties, known at the time the application was submitted. The variety shall be regarded as known, if it appears on the official lists of varieties of any other state or else, if an application has been submitted to register it in the Republic of Lithuania or other countries. The characteristics by which the variety differs from others, must be such that it would be possible to describe them accurately and to recognise them.

4. A variety shall be deemed as meeting the requirements of uniformity, when all of the plants belonging to this variety possess the characteristics, particular to that variety and are alike, with the exception of permitted deviations, related to the characteristics of propagation and properties of the plant variety.

5. A variety shall be deemed stable if upon propagation, the basic characteristics outlined in the prescribed manner in the application for registration, remain in the description of the variety.

Article 10. Research in the Novelty, Exclusiveness, Similarity and Stability of a Variety and the Registration thereof

1. The Centre for Variety Research shall carry on research in the novelty, exclusiveness, similarity and stability of a variety. This centre may also avail itself of the services of experts, applicant and appropriate scientific institutions and organisations of the Republic of Lithuania and other states.

2. Having established the fact that a variety meets the criteria of novelty, exclusiveness, similarity and stability, the Centre for Variety Research shall record it within a 1- month period, under the proposed name, in the Register of Plant Varieties of the Republic of Lithuania (further - Register of Plant Varieties), under the proposed name, and issue a Certificate of Ownership of the variety to the owner and a Certification of Authorship of the variety to the author.

Article 11. The Register of Plant Varieties

1. The Register of Plant Varieties shall be the fundamental record document of the varieties of plants, registered and protected in the Republic of Lithuania.

2. The Register of Plants shall contain the name of the variety, its owner, author, duration of the variety's protection and is also to include all of the changes regarding

name changes of the owner or the variety, issuance of licenses, cancellation or renewal of the variety's registration.

3. The Register of Plant Varieties shall include all of the new varieties of plants created or identified in the Republic of Lithuania after the coming into effect of this Law and also the plant varieties created and designated as suitable for certain regions, and varieties of plants created in Lithuania being researched at the Centre for Variety Research at the time of coming into effect of this Law.

4. Following submission of a written application, documents attesting the rights of ownership and registration of the variety in one of the states, a detailed description of the variety and, upon payment of the proper fee to the Centre for Variety Research, the plant varieties created or identified in other states, shall also be recorded in the Register of Plant Varieties and their protection assured.

Article 12. The Protection of Variety, Ownership Certificate and Authorship Certification Document

1. Variety protection for outdoor plants, flowers and other herbaceous plants shall be valid for 25 years, while that of fruit trees, decorative and other woody plants, for 30 years. The term of its validity shall commence from the time it is recorded in the Register of Plant Varieties. The Centre for Variety Research may extend the duration of the protection term, however this is not to exceed a period of 5 years.

2. The ownership certificate of a variety shall be issued to a natural or legal person, who has created or identified a new variety. In cases wherein the variety belongs to several owners, all of the owners shall be recorded in the variety ownership certificate and the portion of their property shall be indicated by per cent. The owner who holds the largest part of the property shall be entered first. In this case, the ownership certificate of a variety shall be issued to all owners of the variety. The certificate of variety ownership shall be in effect during the entire term of protection of the variety.

3. The variety ownership certification document shall be issued to a natural person, who has created or identified the new variety. In cases wherein the variety has been created or identified by several natural persons, the variety authorship document of certification shall be issued to each one of them, with an indication of the part of authorship.

4. The term of the validity of the authorship of the variety document of certification shall be unlimited.

Article 13. The Rights and Obligations of the Author of a Variety

1. This Law shall regulate and protect the rights of the author of a variety.

2. No one shall have the right, without agreement of the owner (not holding any license agreement with him on using the variety), to use the seeds or seedlings of the variety created or identified by him, for the commercial propagation, sale or other transaction, export, use of the variety as one of the parental components to obtain hybrid seeds thereof, and also use the formula of obtaining the first generation of heterozygous hybrids discovered by him.

3. The rights of variety ownership shall be inviolable, if the variety created or identified by him, shall be employed in scientific work or as the primary germ material for the creation of other new varieties.

4. The owner of the variety must ensure, throughout the entire term of protection of a variety, that all of the characteristics, indicated in the variety registration application, shall be preserved.

5. Natural or legal persons, who have violated the right of the owner of a variety, shall be held liable in accordance with the procedure established by the laws of the Republic of Lithuania.

Article 14. Temporary Protection of the Variety

The temporary protection of variety shall be in effect from the time an application is submitted to the Centre for Variety Research until the issuance of variety protection documents. Upon receipt of the certificate of variety ownership, the owner of the variety shall have the right to submit a claim against the persons, who have violated the requirements noted in Article 13.

Article 15. The Cancellation of Variety Protection Documents

1. The Centre for Variety Research shall have the right to cancel variety protection documents. They shall be cancelled:

1) once it becomes clear that the registered variety does not meet the requirements of Article 9 of this Law or the applicant did not have the right to this variety;

2) if the owner of the variety fails to submit to the Centre for Variety Research, the seeds, seedlings, documents and information, necessary for repeated research of the characteristics of the variety;

3) once it has been established, that a plant variety of that same name and type had been previously registered in another state;

4) when the owner of a variety fails to pay the fee for the protection of the variety or himself requests that the variety protection documents be cancelled.

2. The Centre for Variety Research shall inform the owner of a variety in writing, concerning the decision to cancel the documents of variety protection.

THIRD SECTION RESEARCH IN THE WORTH OF THE VARIETY VARIETY INCLUSION ON THE LIST OF PLANT VARIETIES, MOST SUITABLE FOR CULTIVATION IN LITHUANIA. THE PROPAGATION OF SEED MATERIAL

Article 16. Research in the Worth of the Variety

1. The plant varieties most suited for growing under the conditions existing in Lithuania shall be established by the Centre for Variety Research by performing research of their quality indices and economic value. The results of this research shall be submitted annually for deliberation and estimation by the State Commission for the Estimation of Plant Varieties.

Article 17. The State Commission for the Estimation of Plant Varieties

The Ministry of Agriculture and Forest Economy shall make up the Commission for the Estimation of Plant Varieties. The Commission shall submit proposals to ~~this Ministry~~

(amended 10 June 1997) regarding the formation of a structure of varieties, variety research and the inclusion in the List of the Plant Varieties Most Suited for Cultivation under the Conditions Existing in Lithuania or the removal of such from it, and also the propagation and dissemination of variety seeds and seedlings.

Article 18. The List of the Plant Varieties Most Suitable for Cultivation in Lithuania

Plant varieties which have been estimated as the most suitable for growing under the conditions existing in Lithuania shall, upon the recommendation of the State Commission for Estimation of Plant Varieties, be included in the List of the Plant Varieties Most Suited for Cultivation under the Conditions Existing in Lithuania. The Ministry of Agriculture and Forest Economy (amended 10 June 1997) shall approve and change this list.

Article 19. The Requirements of Seed and Seedling Propagation, Import and Export

1. It shall be permitted to propagate, disseminate and import for propagation the seeds and seedlings of only those varieties included in the List of the Plant Varieties Most Suited for Cultivation under the Conditions Existing in Lithuania. In cases wherein the seeds or seedlings of a certain variety of plant are not to be found in Lithuania, the Ministry of Agriculture and Forest Economy (amended 10 June 1997), shall have the right to import the seeds and seedlings of the varieties not included in this list, by indicating the purpose and designated use thereof.

2. Seeds and seedlings may be imported or exported only if having in one's possession a certificate indicating their variety, category (reproduction) and quality and a phytosanitary certificate (originals). An additional quarantine inspection of seed and seedling shipments must be conducted in Lithuania.

3. The import and export of variety seeds and seedlings shall be controlled by the Customs Office and the State Service for the Quarantine of Plants.

4. The seeds and seedlings, that are being imported in violation of the requirements of this Law, shall be returned or confiscated, while the natural and legal persons shall be held legally responsible in accordance with the procedure established by the laws of the Republic of Lithuania.

5. The limitations of part one of this Article shall not be applied, in cases wherein the seeds and seedlings are brought in for the purpose of conducting scientific and state research of varieties, and also in bringing seed material in for the purpose of propagation for export. In this case, the natural and legal persons of the Republic of Lithuania, who have drawn up contracts with partners in foreign states, involving the propagation for export of the plant varieties which have not been included in the List of the Plant Varieties Most Suitable for Cultivation in Lithuania, for seed and seedling propagation export, must inform the Ministry of Agriculture and Forest Economy (amended 10 June 1997) of this.

Article 20. Quality Control of Seed Crops and Seeds and Seedlings

1. The State Service for the Estimation of Seed Quality shall control the quality of planting crops and seeds and seedlings.

2. The Ministry of Agriculture and Forest Economy (amended 10 June 1997) shall coordinate and control the propagation and dissemination of the highest reproductions of seeds and seedlings of agricultural plants, intended for the renewal of seed crops.

3. The Ministry of Agriculture and Forest Economy (amended 10 June 1997) shall coordinate and control the propagation and dissemination of forest and decorative woody plant variety seeds and seedlings.

4. The quality of the planting seeds and seedlings that are being sold must meet the requirements of the standards in effect in the Republic of Lithuania. The quality of the seed material shall be indicated on the seed and seedling certificates.

Article 21. License Agreement

1. The owner of a variety shall have the right to transfer the right of use of the variety to a natural or legal person in accordance with a license agreement. It must be drawn up in writing. The agreement shall indicate the duration of time, size of compensation or none, the owner of the variety shall provide other persons with the right to use the variety for the purpose indicated in the agreement.

2. The holder of the license may not transfer these rights to a third party, if this has not been stipulated in the agreement with the owner of the variety.

3. If the variety belongs to several owners, the licensing agreement for use of the variety may only be issued in accordance with the agreement conditions coordinated among them.

4. The license agreement shall come into effect only upon its registration at the Centre For Variety Research.

Article 22. Compulsory License

1. Any natural or legal person may appeal to court, when the planting seeds or seedlings of plants, important to the state economy and included in the List of the Plant Varieties Most Suitable for Cultivation in Lithuania are not obtainable in the country, with a request to have the variety owner issue him a compulsory license and obtain the necessary seeding material for the propagation of variety seeds and seedlings.

2. The owner of the variety shall issue a compulsory license per ruling of the court. It shall be registered at the Centre for Variety Research. The court shall also stipulate the size of compensation to the variety owner, and the duration of use time and the conditions thereof.

3. The compulsory license shall not limit the rights of the variety owner established in Article 13.

Article 23. The Stamp Duty

A stamp duty shall be collected in accordance with the procedure established by the Law on the Stamp Duty and Government decrees:

- 1) for submission of an application to register a new variety (Article 6);
- 2) for performance of an expert examination of the application (Article 8);
- 3) for issuance of the document of protection of the variety (Article 12);
- 4) for registration of license agreements (Article 21).

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2. Seeds and seedlings may be imported or exported only if having in one's possession a certificate indicating their variety, category (reproduction) and quality and a phytosanitary certificate (originals). An additional quarantine inspection of seed and seedling shipments must be conducted in Lithuania.

3. The import and export of variety seeds and seedlings shall be controlled by the Customs Office and the State Service for the Quarantine of Plants.

4. The seeds and seedlings, that are being imported in violation of the requirements of this Law, shall be returned or confiscated, while the natural and legal persons shall be held legally responsible in accordance with the procedure established by the laws of the Republic of Lithuania.

5. The limitations of part one of this Article shall not be applied, in cases wherein the seeds and seedlings are brought in for the purpose of conducting scientific and state research of varieties, and also in bringing seed material in for the purpose of propagation for export. In this case, the natural and legal persons of the Republic of Lithuania, who have drawn up contracts with partners in foreign states, involving the propagation for export of the plant varieties which have not been included in the List of the Plant Varieties Most Suitable for Cultivation in Lithuania, for seed and seedling propagation export, must inform the Ministry of Agriculture and Forest Economy (amended 10 June 1997) of this.

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2. The holder of the license may not transfer these rights to a third party, if this has not been stipulated in the agreement with the owner of the variety.

3. If the variety belongs to several owners, the licensing agreement for use of the variety may only be issued in accordance with the agreement conditions coordinated among them.

4. The license agreement shall come into effect only upon its registration at the Centre For Variety Research.

Article 22. Compulsory License

1. Any natural or legal person may appeal to court, when the planting seeds or seedlings of plants, important to the state economy and included in the List of the Plant Varieties Most Suitable for Cultivation in Lithuania are not obtainable in the country, with a request to have the variety owner issue him a compulsory license and obtain the necessary seeding material for the propagation of variety seeds and seedlings.

2. The owner of the variety shall issue a compulsory license per ruling of the court. It shall be registered at the Centre for Variety Research. The court shall also stipulate the size of compensation to the variety owner, and the duration of use time and the conditions thereof.

3. The compulsory license shall not limit the rights of the variety owner established in Article 13.

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- 2) for performance of an expert examination of the application (Article 8);
- 3) for issuance of the document of protection of the variety (Article 12);
- 4) for registration of license agreements (Article 21).

**FOURTH SECTION
CONTROL OF SELECTION WORK AND PROTECTION.
INTERNATIONAL COOPERATION**

Article 24. The Control of Selection Work

1. The authorised experts of the Ministry of Agriculture and Forest Economy (amended 10 June 1997) shall, upon coordination with the creators of plant varieties, have the right to familiarise themselves with the selection work performed by them and to inspect selective crops.

2. Natural and legal persons, commencing selection work, must inform the Centre for Variety Research thereof in writing.

3. The information on the ongoing selection work may be published only, if this is permitted by the natural or legal persons implementing this work.

Article 25. Claims Regarding Compensation of Damages Caused through Unlawful Activity

The right to raise claims concerning the damages caused through illegal activity, in connection with the protection of plant varieties, planting seed and seedling propagation and dissemination is held by the following:

1) variety owners, authors and other natural and legal persons, against whose property and interests damage has been inflicted;

2) the Ministry of Agriculture and Forest Economy, (amended 10 June 1997) if the damage was caused to state interests.

Article 26. Resolution of Variety Protection and Other Disputable Questions Involving Seed-Growing

1. The disputes involving violations of variety owner's and author's rights, determination of variety priority, variety protection, issuance of documents of variety protection and their cancellation as well as other plant variety protection and seed-growing questions shall be examined in court.

2. Disputable questions arising between natural and legal persons of the Republic of Lithuania and foreign countries shall be resolved in court, based upon the laws of the Republic of Lithuania, if it has not been provided to the contrary in international agreements.

Article 27. International Cooperation

1. The protection of only those plant varieties, created or identified in foreign states, which are recorded in the Register of Plant Varieties, or in cases whereby the conditions of variety protection have been stipulated in the international agreements of the Republic of Lithuania, shall be ensured in the Republic of Lithuania.

2. If other requirements of variety protection exist in an agreement formed between the Republic of Lithuania and another state, the requirements of the international agreement shall be adhered to.

3. Natural and legal persons of foreign countries may only propagate and disseminate through representatives (natural or legal persons) the seeds and seedlings of the plant

varieties created or identified in foreign states, which are included in the List of Plant Varieties Most Suitable for Cultivation in Lithuania, following coordination thereof with the Ministry of Agriculture and Forest Economy (amended 10 June 1997).

Article 28. The Coming Into Effect of the Law

This Law shall come into effect as of January 1, 1997.

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

ALGIRDAS BRAZAUSKAS
President of the Republic

September 17, 1996

No I - 1518

(as amended by 10 June 1997)