

POLAND

**EXTRACT FROM THE DECREE OF THE MINISTER FOR AGRICULTURE,
FORESTRY AND FOOD ECONOMY
CONCERNING
THE REGISTER OF VARIETIES, THE ROLL OF EXCLUSIVE RIGHTS
ON VARIETIES AND THE CONTROL OF SEED MATERIAL ***

Consolidated Text of the Ministerial Decree
of April 14, 1988,
as Amended on September 25, 1990

Pursuant to Article 16.1, Article 30.1 and 3, and Article 71(1) and (2) of the Seed Industry Law of October 10, 1987 (Official Journal No. 31, text No. 166), the Minister decrees:

CHAPTER ONE

REGISTER OF VARIETIES

Article 1

1. The Articles referred to in this Decree are those of the Seed Industry Law of October 10, 1987 (Official Journal No. 31, text No. 166), hereinafter referred to as the "Law."
2. The cultivated plants of which the varieties are subject to entry into the Register (hereinafter referred to as the "Register") are set out in Annex I¹ to this Decree.
3. The entry of a hybrid into the Register is subject to the consent of the breeders of the primary components of the hybrid if they have the exclusive right on those components in Poland.

Article 2

The entry of a variety into the Register is subject to possession of a quantity, determined by the Research Center for Varieties of Cultivated Plants (*Centralny Ośrodek Badania Odmian Roslin Uprawnych*, hereinafter referred to as the "Center"), of seed material which is the end product of a crossing cycle in the case of a hybrid or, in the case of a non-hybrid variety, of appropriate seed material.

Article 3

1. An application for entry of an original domestic variety into the Register must contain the surnames and forenames of the creators and the persons who assisted in the creation of the variety; their share in the creator's bonus and the auxiliary creator's bonus must be specified as a percentage.
2. An application for entry of a selected variety into the Register is subject to the consent of the breeder of the initial variety if that variety is entered into the Roll of Exclusive Rights on Varieties (hereinafter referred to as the "Roll"). Initial variety means a variety which does not differ in its botanical characteristics from the selected variety derived from it.

Article 4

1. An application for entry of a hybrid into the Register is not subject to there being an application for its primary components. The breeder of a hybrid can keep its formula secret.
2. If certified seed material of a hybrid has to be produced in Poland, the breeder of the hybrid must apply for entry of the primary components and disclose the formula for the exclusive use of the Center and the Seeds Inspectorate.

Article 5

The Center will establish, for each cultivated plant, the time limits for applying for entry of varieties into the Register.

Article 6

1. An application for entry of a variety into the Register must be accompanied by the results of investigations into its characteristics and its economic value.
2. The Center will determine the requirements concerning the investigations referred to in paragraph 1 where the duration of the trials of the original and local varieties may not be less than two consecutive years.
3. The Center may depart from the requirements referred to in paragraph 2 if a variety has been removed from the Register on the basis of Article 12(1)(4) or Article 12(2) of the Law and a new application for entry into the Register has been made for the variety, as a selected variety.
4. The Center will inform the applicant of the duration of the testing, its extent, its size, its placing and the methods to be used.

Article 7

1. A breeder applying for entry of an original variety into the Register must, in agreement with the Center, must give a provisional denomination to the variety.
2. A selected variety is applied for under the denomination of the initial variety, whereas an original foreign variety is applied for under the denomination registered in another State, unless otherwise provided in Article 5.1 and 2 of the Law.
3. In cases where this is particularly justified, the giving of a provisional denomination to a variety submitted for entry will not prevent the breeder from giving other denominations for use abroad.
4. After two years of testing of a variety submitted for entry, the applicant must give the variety a denomination under which it will be entered into the Register. This denomination may be identical to the provisional denomination. The provisions of paragraphs 1 and 2 apply *mutatis mutandis*.
5. If the Center intends to enter the variety into the Register before the end of the third year of testing, it will require the applicant to give the variety a denomination before the expiration of the time limit laid down in paragraph 4.

Article 8

The Center must allow the breeder of a variety to inspect the trials, must provide to him information concerning them and must put at his disposal the results obtained.

Article 9

Failure to supply, in any one year, seed material required by the Center for the purpose of testing constitutes grounds for prolonging the testing for another year; failure to supply, during two consecutive years, seed material required for the purpose of testing, can constitute grounds for rejection of the entry of the variety into the Register.

Article 10

At the time of the decision on the entry of an original domestic variety into the Register the creators of the variety will be named.

Article 11

The breeder of a variety submitted for entry or entered into the Register must supply to the Center all information concerning all applications, entries, extension of entries or removal of the variety filed for or registered in foreign registers of varieties, lists, catalogues or indexes of varieties, together with all information concerning changes of the variety denomination.

Article 12

1. The Center will publish information concerning applications for entry and entries of varieties into the Register and removals from the Register. This information will consist of:

- (1) the dates of application, entry, refusal of entry and removal of the varieties;
- (2) the denominations of the varieties and any changes.
- (3) the surnames and forenames or the trading names of breeders of varieties and changes of breeders;
- (4) the surnames and forenames of the creators of original domestic varieties.

2. The Center will transmit to the Central Inspectorate of the Seeds Inspection the information concerning the applications for entry, the entries, the refusals of entry and the removals of varieties from the Register as soon as the relevant decisions have been taken. If refusal of the entry of a variety into the Register results from the fact that its economic value is less than that of all the varieties entered into the Register, the Center will inform the Central Inspectorate of the Seeds Inspection accordingly.

Article 13

Committees for the registration of varieties (hereinafter referred to as “Committees”) are established for the following groups of cultivated plants:

- (1) straw cereals;
- (2) maize;
- (3) legumes (large grain);
- (4) fodder legumes and fodder grasses;
- (5) root crops;
- (6) potatoes;
- (7) oil plants;
- (8) fibre plants;
- (9) hops;
- (10) tobacco;

- (11) medicinal and aromatic plants;
- (12) vegetables;
- (13) ornamental plants;
- (14) fruit trees and berry plants.

Article 14

1. Each Committee may consist of no more than 20 persons, representing:
 - (1) fundamental and applied research in the fields of assessment and utilization of varieties;
 - (2) agricultural, horticultural, industrial and commercial enterprises as well as unions and other organizations of such enterprises;
 - (3) associations of producers;
 - (4) agricultural, horticultural and commercial cooperatives;
 - (5) other economic organizationshaving an interest in the use of varieties of the cultivated plant or of a corresponding group of cultivated plants.
2. The terms of office of members of the Committee shall be five years.

Article 15

1. The Center is responsible for the organization of the tasks of the Committees and for putting timely at their disposal the material necessary for the Committees to form their opinions.
2. The amount of remuneration for participation at sessions is established by regulations.
3. The expenses resulting from the activities of the Committees are covered by the Seed Industry Fund.

CHAPTER II

ROLL OF EXCLUSIVE RIGHTS ON VARIETIES

Article 16

The list of cultivated plants of which the new original varieties are subject to entry into the Roll of Exclusive Rights on Varieties (hereinafter referred to as the “Roll”) is given in Annex 1* to this Decree. The provisions of Article 6.4 and of Article 8 are applicable *mutatis mutandis*.

Article 16a

The breeder of a new original variety of an ornamental plant, independently of the provisions of Article 18 of the Law, has the exclusive right to use plants of that variety or parts thereof as seed material for the purpose of producing commercially plants or parts thereof.

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Article 17

1. If the breeder of an original variety is entitled to the priority referred to in Article 22.1 and 2 of the Law, the application for the grant of protection of the exclusive right on the variety must include the claim to the priority relating to the first application for protection made in another State. The application must be supplemented, within a time limit of three months, by a copy of the documents which were enclosed with the earlier application, certified to conform to the originals by the administration which received that application.
2. The breeder may, within a period of four years after the expiration of the priority period, supply to the Center the documents supplementing the application and the seed material required for the purpose of testing of the variety.
3. If the application for protection of the exclusive right made abroad, which constitutes the basis for the claim to priority, has been rejected or withdrawn, the breeder must inform the Center accordingly and supply the supplementary documents and the other material within six months.
4. The provisions of Article 1.3, and of Articles 5 and 7 apply *mutatis mutandis*.

Article 18

The breeder of a variety entered into the Roll must give to the Center all information concerning the grant of protection of the exclusive right abroad and all changes of the denomination of the variety abroad.

Article 19

1. The Center publishes information concerning applications for entry and entries of new original varieties into the Roll and also their removal from the Roll. This information includes:

- (1) the dates of application, entry, refusal of entry and removal of the varieties;
- (2) the denominations of the varieties and any changes;
- (3) the surnames and forenames or trading names of the breeders of varieties and changes of breeder.

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CHAPTER IV

TRANSITIONAL AND FINAL PROVISIONS

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Article 29

The provisions of Article 1.2, of Articles 2, 3 and 5, of Article 6.4, of Articles 7 to 10, 11 to 13 and 16 to 19, of Article 26.5 and of Articles 27 and 28 concerning varieties apply *mutatis mutandis* to the primary components of hybrids.

Article 30

This Decree enters into force on the day of its publication.

* Polish Title: Rozporządzenie Ministra Rolnictwa, Lesnictwa I Gospodarki Żywnościowej w sprawie rejestru odmian, księgi ochrony prawa do odmiany oraz kontroli materiału siewnego

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