

LAW
OF THE REPUBLIC OF TAJIKISTAN

On Protection of Plants Varieties

The present Law regulates legal protection of varieties of plants and identifies legal platform for provision and protection of rights of plant selection breeder.

The legislation of the Republic of Tajikistan on protection of plants varieties is based on the Constitution of the Republic of Tajikistan and is comprised of the present Law, other normative statutory documents of the Republic of Tajikistan and also international legislative acts recognized by Tajikistan.

Article 3. Scope of the present Law

The present Law is applied to genus and varieties of plants the list of which is defined by the authorized state body and to all genus and varieties of plants not later than ten years after its enactment.

Article 4. Certified state body for testing, registration and protection of plants varieties

1. The authorized state body on testing, registration and protection of plants varieties (hereinafter – the authorized state body) ensures carrying out of integrated policy in the area of protection of plants varieties on the territory of the Republic of Tajikistan. The authorized state body is identified by the Government of the Republic of Tajikistan.

2. The authorized state body gives right of plant selection breeder to a breeder of a plant variety and issues certificates of right of plant selection breeder that authenticates rights of plant selection breeder for protection of plant variety.

3. The authorized state body has the following authorities regarding protection of plants varieties:

- keeps the Register and ensures availability of its information;
- solves issues regarding examination of applications;
- in case plant variety corresponds to conditions set forth in articles 8-11 of the present Law, a certificate of right of plant

3. Plant selection breeder is given two years after expiration of priority or, when the first application was rejected or recalled, time determined by the authorized state body after the rejection or recollection for submitting to the authorized state body any information, documents or materials required for examination stipulated in article 14 of the present Law.

4. Submission of another applicatio

- sale or other introduction into commercial turnover;
- import;
- export;
- storing for the abovementioned purposes.

2. To grant such permission, the plant selection breeder may require observation of certain conditions and limitations.

3. Activities indicated in Part 1 of the present article concerning plant material including whole plants and their parts received as a result of using protected variety of seed material without permission require permission of plant selection breeder if only he/she did not have a sufficient potential to use his/her right with regards to the said seed material.

4. Provisions in parts 1 and 3 of the present article also apply to:

- plant varieties essentially derived from the protected plant variety if the protected plant variety is not itself a derivative;
- plant varieties that subtly differ from the protected plant variety in accordance with article 9 of the present Law;
- plant varieties production of which requires multiple use of protected plant variety.

5. Plant variety is recognized as essentially derivative from another plant variety (“original variety”) if it is:

- predominantly produced from an original plant variety or from another plant variety that itself was predominantly produced from an original plant variety retaining degree of manifestation of main characteristics that are the result of genotype realization or combination of genotypes of an original plant variety;
- clearly different from an original plant variety;
- corresponds to the original plant variety in the degree of manifestation of main characteristics that are the result of genotype realization or combination of genotypes of an original plant variety with the exception of differences resulting from origination.

6. Essentially derivated plant varieties may be received through 82061124.0613, Tw[awa

- with the purposes of creating new plants varieties with the exception of instances when provision of part 4 of article 16 of the present Law apply to activities carried out with such plant varieties in accordance to parts 1-3 of article 16 of the present Law.

Article 18. Termination of plant selection breeder right

1. Plant selection breeder right does not apply to activities with regard to any material of a protected plant variety or plant variety that falls under provisions

CHAPTER 5. NAMING OF PLANT VARIETY

Article 22. Naming of plant variety

1. Plant variety should have a name that is suggested by the plant selection breeder to the authorized state body, and registered in the Register simultaneously with granting plant selection breeder right. Taking into account part 4 of the present article, no right with regards to denotation registered as plant variety name prevents from free use of this name with regards to this plant variety even after expiration of plant selection breeder right.

2. Plant variety name must allow for identification of plant variety. Plant variety name should not contain only figures except for the cases when that corresponds to the established practice of plant variety denotation. The name should not misguide or result in confusion regarding characteristics, qualities or identity of a particular plant variety or plant selection breeder personality. In particular, plant variety name must differ from any other names that are used for naming the existing plants of a same or similar plant variety on the territory of any member of the International Union on Protection of New Plant Varieties.

3. In case it is discovered that such name does not correspond to the criteria set forth in part 2 of the present article, the authorized state body refuses its registration and requires the plant selection breeder to suggest another name within time period determined by the authorized state body.

4. Rights of third parties acquired earlier are not affected. If, due to the rights acquired earlier, use of plant variety name is prohibited to a person that must use it according to part 1 of article 23 of the present Law the authorized state body requires that plant selection breeder suggests another name for a plant variety.

5. Plant variety must be suggested to all members of the International Union on Protection of New Plant Varieties under one and the same name. The authorized state body registers name thus suggested only if this body does not consider this name unacceptable. In this case the authorized state body must request the plant selection breeder to suggest another name.

6. The authorized state body ensures information sharing among all other relevant government authorities of members of the International Union on Protection of New Plant Varieties on the issues regarding plant varieties name, in particular on suggestion, registration and cancellation of plant varieties names. Any abovementioned relevant government body may send its comments regarding registration of plant varieties names to the authorized state body.

Article 23. Use of plant varieties name

1. Any person that offers seed material of plant variety protected on the territory of the Republic of Tajikistan or introducing it into commercial turnover on the territory of the Republic of Tajikistan must use name of this plant variety even after expiration of plant selection breeder right for this plant variety only if, according to part 4 of article 22 of the present Law, rights acquired earlier do not impede such use.

2. When a plant variety is offered for sale or introduced into commercial turnover registered plant variety name may be used together with trademark, commercial name or any other similar marking. In case of such combination plant variety name must be easily identifiable.

CHAPTER 6. NULLIFICATION AND CANCELLATION OF PLANT SELECTION BREEDER RIGHT

Article 24. Nullification of plant selection breeder right

1. Plant selection breeder right is nullified by the authorized state body in the following cases:

- if it will be determined that provisions set forth in articles 8 or 9 of the present law were not observed from the date of granting plant selection breeder rights;
- in cases when plant selection breeder right was granted based on information and documents submitted by plant selection breeder, and conditions stipulated in articles 10 or 11 were not fulfilled from the date of granting plant selection breeder rights;
- if plant selection breeder right was granted to a person who did not have a right for it unless the plant selection breeder right is not transferred to a person that had a right for it.

2. Plant selection breeder rights can not be nullified on any other grounds that are not set forth in part 1 of the present article.

Article 25. Cancellation of plant selection breeder right

1. The authorized state body may cancel the plant selection breeder right if it will be determined that conditions stipulated in articles 10 or 11 of the present Law are not observed.

2. Plant selection breeder right may be cancelled if based on the corresponding request and within the defined time period the plant selection breeder:

- has not provided to the authorized stat body information, documents or materials necessary for verification of plant variety protection support;
- has not paid for the services for keeping his/her right in force;
- has not suggested another appropriate name in case plant variety name is nullified after granting plant selection breeder right.

3. Plant selection breeder right can not be cancelled on any grounds other than set forth in parts 1 and 2 of the present article.

Article 26. Halfway termination of plant selection breeder right

1. If holder of plant selection breeder right applies to the authorized state body regarding halfway cancellation of plant selection breeder right, his/her right is cancelled before expiration of specified date.

2. If expiration date of plant selection breeder right is not indicated in the application form, the date of acceptance of application for termination of plant selection breeder right by the authorized state body is regarded as a date of termination of plant selection breeder right.

CHAPTER 7. FINAL PROVISIONS

Article 27. Rights of foreign persons and legal entities for plant varieties protection

1. Regarding granting and protection of plant selection breeder rights without prejudice to rights set forth in the present Law, citizens of members of the International Union on Protection of

