

LAW  
OF THE REPUBLIC OF ARMENIA

Adopted on 8 December 2017

**ON THE PROTECTION OF VARIETIES OF PLANTS**

**CHAPTER 1**

***GENERAL PROVISIONS***

**Article 1.      Subject matter of the Law**

1. This Law shall regulate the relations pertaining to the breeding, use, protection of varieties of plants, the breeder's right, the nullity thereof and the grant of a licence, or the cancellation of that right.

**Article 2.      Main concepts used in the Law**

1. The following main concepts shall be used in this Law:
  - (1) **breeder** —
    - a. the person who bred, discovered and developed any variety;
    - b. the person who is the employer of the person who bred, discovered and developed, a variety or who has commissioned the latter's work, unless otherwise provided for by the employment or civil law contracts concluded between them;

- c. the person who is the successor in title of persons referred to in sub-points "a" and "b" of point 1 of part 1 of this Article;
- (2) **breeder's right** — the right of the breeder prescribed by this Law, which is certified by a licence granted to the breeder;
- (3) **variety** — a plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder's right are fully met, may be:
- a. defined by the expression of the characteristics resulting from a given genotype or combination of genotypes;
  - b. distinguished from any other plant grouping by the expression of at least one of the said characteristics;
  - c. considered as a unit with regard to its suitability for being reproduced unchanged;
- (4) **authorised authority** — Ministry of Economy of the Republic of Armenia;
- (5) **UPOV** (hereinafter referred to as "the UPOV") — International Union for the Protection of New Varieties of Plants, founded by the International Convention for the Protection of New Varieties of Plants of 1961 and further revised by Acts of 1972, 1978 and 1991;
- (6) **member of the UPOV** — a Member State to the Act of 1978, or a Contracting Party to the Act of 1991 of the UPOV Convention of 1961;
- (7) **seed material (nursery material)** — a plant or a part of a plant used for the purpose of propagation of a variety;
- (8) **plant material** — a plant or a part of a plant used for the purpose other than propagation of a variety;

(9) **nationals** — nationals of the UPOV Member State or nationals of a Member State of an intergovernmental organisation which is a member to UPOV.

*(Article 2 amended by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

### **Article 3. Scope of application of the Law**

1. The provisions of this Law shall equally apply in relation to both nationals, natural or legal persons of the Republic of Armenia and nationals, natural or legal persons of members of the UPOV, residing or operating in the member of the UPOV.
2. This Law shall apply to all plant genera and species upon entry into force.

*(Article 3 amended, supplemented by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

## **CHAPTER 2**

### ***CONDITIONS AND CRITERIA FOR THE GRANT OF LEGAL PROTECTION FOR VARIETIES OF PLANTS***

#### **Article 4. Conditions for the grant of legal protection for varieties of plants**

1. The breeder's right shall be granted where the criteria for the grant of that right for the variety are met.

The breeder's right shall be granted where the variety is:

- (1) new;
  - (2) distinct;
  - (3) uniform;
  - (4) stable.
2. The grant of the breeder's right may not be subject to any further conditions or differ from the criteria listed in part 1 of this Article, provided that the variety is designated by a denomination in accordance with the provisions of Article 19 of this Law, and the applicant complies with the formalities provided for by this Law, and that the applicant makes the payments of the state duties prescribed by the Law of the Republic of Armenia "On state duty".

#### **Article 5. Novelty**

1. The variety shall be deemed to be new if, at the date of filing of the application for a breeder's rights, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, for purposes of the exploitation of the variety:

- (1) in the territory of the Republic of Armenia, in which the application has been filed earlier than one year before the application date;
- (2) in a territory of another state, in which the application has been filed earlier than four years and, in the case of fruit trees and of vines, earlier six years before the said date.

***(Article 5 amended by HO-242-N of 26 June 2023)***

***(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)***

## **Article 6. Distinctness**

1. The variety shall be deemed to be distinct if it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of the filing of the application. In particular, the filing of an application for the granting of breeder's rights or for the entering of another variety in an official register of varieties, in any country, shall be deemed to render that other variety a matter of common knowledge from the date of filling in the application, provided that the filling in the given application leads to the granting of a breeder's right or to the entering of the said variety in the official register of varieties.

***2.(Article 6 amended by HO-242-N of 26 June 2023)***

***(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)***

## **Article 7. Uniformity**

1. The variety shall be deemed to be uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in its relevant characteristics.

*(Article 7 edited by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

## **Article 8. Stability**

1. The variety shall be deemed to be stable if its main characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.

*(Article 8 amended by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

## **CHAPTER 3**

### ***APPLICATION FOR THE GRANT OF THE BREEDER'S RIGHT***

## **Article 9. Filing of applications**

1. The date of receipt of the application by the authority shall be deemed to be the date of filing of the application for a breeder's right.

2. The application must contain:
  - (1) a written request;
  - (2) variety denomination;
  - (3) variety description;
  - (4) a receipt for payment of the state duty in the prescribed amount.
3. The requirements for the forms of the documents of the application shall be prescribed by the authorised authority.
4. A new application shall be filed in for each variety.

*(Article 9 amended by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

#### **Article 10. Right of priority**

1. Everyone who has filed an application for the protection of a new variety of a plant in one of the UPOV Members shall enjoy, for a period of 12 months, a right of priority for the purpose of filing an application for the granting of a breeder's right for the same variety with the authority of another UPOV member. This period shall be computed from the date of filing of the first application.

The date of filing of the application shall not be computed in the period referred to in part 1 of this Article.

2. In order to enjoy the right of priority, the breeder must, in the application filed with the authority, include information about the priority of the first application. The applicant shall be obliged to furnish, within a period of not less than three months from the date of filling in the application, copies of the documents of the first application, validated by the authority having issued the first application, as

well as samples or other evidence that the variety which is the subject matter of both applications is the same.

3. Filing of a new application or the publication or use of the variety within the period prescribed by part 1 of this Article may not constitute a ground for rejecting the application, as well as may not give rise to any third-party right.
4. The breeder shall be allowed a period of two years after the expiration of the period of priority or, where the first application is rejected or withdrawn, an appropriate time, after such rejection or withdrawal, in which to furnish, to the authority, any necessary information, document or material required for the purpose of the examination under Article 11.

*(Article 10 edited, supplemented by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

## **Article 11.      Granting of the breeder's right**

1. The decision on granting or rejecting a breeder's right shall be rendered within a period of one month following an examination for compliance with the requirements for legal protection of new varieties of plants, provided for by Articles 4 to 8 of this Law. In the course of the examination, the authority may grow the variety or carry out necessary tests, cause the growing of the variety or the carrying out of other necessary tests, or take into account the results of tests which have already been carried out.
2. For the purposes of carrying out tests and examinations, the authorised authority may require the breeder to furnish the necessary information, documents or materials deriving from this Law.
3. The granting of the breeder's right may not be rejected, or this right may not be terminated by the authority on the ground of not granting previously the protection

of the variety, rejecting the protection thereof or expiration of the time limit of the protection in another state or intergovernmental organisation.

**(Article 11 edited by HO-242-N of 26 June 2023)**

**(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)**

## **Article 12.      Provisional protection**

1. With a view to protecting the interests of the breeder, the breeder shall be provided with provisional protection of a breeder's rights during the period between the filing of the application for the grant of a breeder's right and the grant of a breeder's right.
2. Provisional protection includes all those rights which are granted in case of being granted a breeder's right.
3. The applicant shall be considered as a holder of a breeder's right towards any person who, during the period provided in part 1 of this Article, has carried out acts which, once the right is granted, require the breeder's authorisation as provided for by Article 13 of this Law. The applicant must have the same rights to enter into licence agreements and initiate legal proceedings as if on the filing date the breeder's right had been granted to the applicant in respect of the variety concerned. The rights conferred under this paragraph shall be deemed never to have been conferred if the right is not granted.
4. Provisional protection shall only take effect in relation to persons whom the breeder has notified of the filing of the application.

**(Article 12 amended, supplemented by HO-242-N of 26 June 2023)**

**(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)**

## CHAPTER 4

### *THE RIGHTS OF THE BREEDER*

#### **Article 13. Exclusive rights of the breeder**

1. Subject to Articles 14 and 15 of this Law, the following acts — referred to in this Article — in respect of propagating material of the protected variety shall require the authorisation of the breeder:
  - (1) production or reproduction (multiplication);
  - (2) conditioning for the purpose of propagation;
  - (3) offering for sale;
  - (4) selling or other marketing;
  - (5) exporting;
  - (6) importing;
  - (7) stocking for the purposes mentioned in points 1 to 6 of part 1 of this Article.
2. The breeder may make the authorisation subject to certain requirements and limitations.
3. Subject to Articles 14 and 15, the acts referred to in points 1 to 7 of part 1 of this Article, in respect of harvested material, including entire plants and parts of plants, obtained through the unauthorised use of propagating material of the protected variety shall require the authorisation of the breeder, unless the breeder has had a reasonable opportunity to exercise his right in relation to the said harvested material
4. Provisions of parts 1 to 3 of this Article shall also extend in relation to:
  - (1) varieties which are essentially derived from the protected variety, where the

- protected variety is not itself an essentially derived variety;
- (2) varieties which are not clearly distinguishable in accordance with the provisions of Article 6 of this Law from the protected variety;
  - (3) varieties whose production requires the repeated use of the protected variety.
5. A variety shall be deemed to be essentially derived from another variety where:
- (1) it is predominantly derived from the initial variety, or from a variety that is itself derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;
  - (2) it is clearly distinguishable from the initial variety;
  - (3) it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety, except for the differences which result from the act of derivation.
6. Essentially derived varieties may be obtained by the selection of a natural or induced mutant, or of a somaclonal variant, or the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering.

***(Article 13 edited, amended, supplemented by HO-242-N of 26 June 2023)***

***(the Article shall, in respect of the amendment to Law HO-13-N of 17 January 2023, enter into force after six month following the official promulgation of the same Law)***

***(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)***

## **Article 14. Exceptions to the breeder's right**

*(Title amended by HO-242-N of 26 June 2023)*

1. The breeder's right shall not extend to
  - (1) acts done privately and for non-commercial purposes;
  - (2) acts done for experimental purposes;
  - (3) acts done for the purpose of breeding other varieties, and, except where the provisions of part 4 of Article 13 apply, acts provided for by parts 1 to 4<sup>1</sup> of Article 13 in respect of such other varieties.
2. It is not considered as infringing the breeders' rights, if within reasonable limits and subject to safeguarding the legitimate interests of the breeders, farmers use, for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting, on their own holdings, the protected varieties or varieties covered by points 1 or 2 part 4 of Article 13 of this Law included in the list of prescribed agricultural crops.
3. The authority body of the Government shall prescribe the list of agricultural crops. The varieties of fruits, ornamentals, vegetables and forest plants are excluded from the exception referred to in part 2.
4. The reasonable limits and the measures to safeguard the legitimate interests of the breeder referred to in part 2 of this Article shall be established by the authority.

*(Article 14 amended, supplemented by HO-242-N of 26 June 2023)*

*(Law [HO-242-N](#) of 26 June 2023 contains a final part and a transitional provision)*

<sup>1</sup> There is a clerical error which will be corrected by an amendment of the Law during the first half of 2024.

## **Article 15. Exhaustion of the breeder's right**

1. The breeder's right shall not extend to the varieties covered by part 4 of Article 13 of this Law, or to the varieties which have been sold or otherwise marketed by the breeder or with the latter's consent in the territory of the Republic of Armenia, or to any material derived from the variety referred to in this point, unless such acts:
  - (1) involve further propagation of the variety in question or
  - (2) involve an export of material of the variety, which enables the propagation of the variety, into a country which does not protect varieties of the plant genus or species to which the variety belongs, except where the exported material is for final consumption purposes.
2. In this Article, the term "material" in relation to a variety means:
  - (1) propagating material of any kind;
  - (2) harvested material, including entire plants and parts of plants;
  - (3) any product made directly from the harvested material.

*(Article 15 amended, supplemented by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

## **Article 16. Restrictions on the exercise of the breeder's right**

*(Title supplemented by HO-242-N of 26 June 2023)*

Except for the cases prescribed by this Law, the breeder's right may be restricted only for ensuring the primary public interest.

When any such restriction has the effect of authorising a third party to perform any act for which the breeder's authorisation is required, the breeder shall receive

equitable remuneration.

*(Article 16 edited by HO-412-N of 24 October 2018, supplemented, amended by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

#### **Article 17. Measures regulating commerce**

1. The breeder's right shall be independent of any measure taken to regulate the production, certification and marketing of materials of varieties or the importing or exporting of such materials. In any case, such measures shall not affect the application of the provisions of this Law.

*(Article 17 amended by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

#### **Article 18. Duration of the breeder's right**

1. The breeder's right shall be granted for a period of 20 years from the date of the grant of the breeder's right. For fruit trees and vines, the period shall be 25 years from the date of the grant of the breeder's right.

*(Article 18 supplemented, amended by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

### **CHAPTER 5**

#### **VARIETY DENOMINATION**

## **Article 19. Variety denomination and use of denomination**

1. Every variety must be designated by a denomination which will be its generic designation and must enable the variety to be identified. Subject to part 4 of this Article, no rights in the designation registered as the denomination of the variety shall hamper the free use of the denomination, even after the expiration of the breeder's right.
2. The denomination may not consist of figures, except where this complies with the established practice for designating the variety. It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. It must be different from every denomination which designates, in the territory of any UPOV member, an existing variety of the same plant species or of a closely related species.
3. The variety denomination shall be submitted by the breeder to the authority. Where it is found that this denomination does not satisfy the requirements of point 2 of this Article, the authority shall refuse to register it and shall require the breeder to propose another denomination within a prescribed period. The variety denomination shall be registered by the authorised authority at the same time as the breeder's right is granted.
4. Prior rights of third persons shall not be affected. If, by reason of a prior right, the use of the variety denomination is forbidden in accordance with part 8 of this Article, the authority shall require the breeder to submit another denomination for the variety.
5. A variety must be submitted to all UPOV members under the same denomination. The authority shall register the denomination submitted in accordance with the provisions of this Article, unless it considers the denomination unsuitable. Where the denomination is considered unsuitable, the authority shall require the breeder

to submit another denomination.

6. The authority shall ensure that all competent authorities of the members of UPOV are provided with information on variety denominations, in particular the submission, registration and cancellation of denominations.
7. Every competent authority of a member of UPOV may address its observations on the registration of a variety denomination to the authority.
8. Any person who, in the territory of the Republic of Armenia, offers for sale or markets propagating material of a protected variety shall be obliged to use the denomination of that variety, even after the expiration of the breeder's right for that variety, except where, in accordance with the provisions of part 4 of this Article, prior rights prevent such a use.
9. When a variety is offered for sale or marketed, it shall be permitted to associate a trademark, trade name or other similar indication with a registered variety denomination. If such an indication is so associated, the variety denomination must be easily recognisable.

*(Article 19 amended, edited by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

## CHAPTER 6

### ***NULLITY AND CANCELLATION OF THE BREEDER'S RIGHT***

#### **Article 20. Nullity of the breeder's right**

1. The breeder's right shall be declared null and void through judicial procedure when it is established that:
  - (1) the breeder's right has been granted in violation of the provisions of Articles 5 or 6 of this Law;
  - (2) the breeder's right has been granted based upon the information and documents furnished by the breeder and the requirements prescribed by provisions of Articles 7 or 8 of this Law were not complied with at the time of the grant of the breeder's right without observance of the requirements prescribed by Articles 7 or 8 of this Law;
  - (3) the breeder's right has been granted to a person who is not entitled to it, unless it is transferred to the person who is so entitled.
2. No breeder's right shall be declared null and void, except for the cases provided for by point 1 of this Article.

*(Article 20 supplemented, amended by HO-242-N of 26 June 2023)*

*(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)*

#### **Article 21. Cancellation of the breeder's right**

1. The breeder's right may be cancelled, where:

- (1) it is established that the conditions prescribed by Articles 7 or 8 of this Law are no longer fulfilled;
  - (2) after being requested to do so and within a prescribed period:
    - a. the breeder is not able to provide the authority with the information, documents or materials deemed necessary for verifying and maintaining the variety;
    - b. the breeder does not propose another denomination, where the variety denomination is cancelled after the grant of the breeder's right.
    - c. the breeder fails to pay such fees as may be payable to keep his right in force.
2. No breeder's right shall be cancelled except for the cases provided for by point 1 of this Article.

***(Article 21 amended, supplemented by HO-242-N of 26 June 2023)***

***(Law HO-242-N of 26 June 2023 contains a final part and a transitional provision)***

## **CHAPTER 7**

### ***APPLICATION OF THE LAW AND FINAL PROVISIONS***

#### **Article 22. Liability in case of violation of this Law**

1. Violation of the requirements of this Law shall entail civil liability prescribed by the law of the Republic of Armenia.

### **Article 23. Publication of official information**

1. Public awareness shall be ensured by the authority:
  - (1) through publication of information regarding the application submitted for the grant of the breeder's right, and the grant of the right;
  - (2) through publication of proposed and approved variety denominations.

### **Article 24. Powers of the Government of the Republic of Armenia in the sector of protection of varieties of plants**

1. The Government of the Republic of Armenia shall approve:
  - (1) the procedure for the grant of the breeder's right, the expert examination of denomination proposed for the new variety, and the list of necessary information, documents or materials submitted for tests;
  - (2) the procedure for the publication of information on application submitted for the grant of the breeder's right and the grant of the right, of proposed and approved variety denominations;
  - (3) the procedure for appealing against the grant of the breeder's right;
  - (4) the procedure for keeping a register of persons having the breeder's right;
  - (5) the process for declaring the breeder's right null and void.

## **CHAPTER 8**

### ***TRANSITIONAL PROVISIONS***

#### **Article 25. Previous patents**

1. Before entry into force of this Law, according to the Law of the Republic of Armenia "On the protection of selection achievements", the rights of the persons having received patents on selection achievements in cultivation of plants shall, following the entry into force of this Law, continue to be exercised, as prescribed by this Law.

#### **Article 26. This Law shall enter into force on the tenth day following the day of its official promulgation.**

**President**

**of the Republic of Armenia**

**S. Sargsyan**

22 December 2017

Yerevan

HO-231-N