

**ACT AMENDING THE PROTECTION OF NEW VARIETIES OF PLANTS ACT
(Official Gazette RS, No. 61/2006)***

Article 1

In the Protection of new varieties of plants act (Official Gazette RS, No 86/98 and 52/02-ZDU-1) the first paragraph of Article 1 should be amended to read as follows:

"This Act regulates the procedure for the protection of new varieties of plants, the granting and the protection of the plant variety right and the competent body for the protection of new varieties of plants and its authorisations, the carrying out of the cumulative protection prohibition, the authorisation granted to a holder of a plant variety right for acts in relation to the material of a protected variety, and the fines for infringements for implementing Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (OJ L No 227 of 1. 9. 1994, p 1, as amended)."

Article 2

In Article 2 the following new points 10 and 11 are added:

"10. Export shall mean export from the European Community (further on as: the Community).

11. Import shall mean import into the Community."

Article 3

After Article 2, the following new Article 2.a is inserted:

"Article 2.a

Rights of all plant varieties protected under the scheme for Community plant variety rights shall be given the same treatment as rights of plant varieties protected under this Act, including measures aimed at ensuring their implementation."

Article 4

Article 3 is amended to read as follows:

"Article 3

The proceeding for the protection of a new variety, register of applications for the protection of new varieties (further on as: register of applications) and register of protected plant varieties shall be kept by a body responsible for administrative, expert and development tasks in the field of protection and registration of varieties of plants (further on as: competent body) as a body within the ministry for agriculture and forestry (further on as: the ministry)."

Article 5

In Article 4 the following third paragraph is added:

"A variety which has been applied for a plant variety right in the Community or protected under the scheme for Community plant variety rights may not, pursuant to this Act, be subject to additional protection."

Article 6

In the first paragraph of Article 5 the wording "in the Republic of Slovenia" is replaced by the wording "in the Community", and the wording "outside the Republic of Slovenia" is replaced by the wording "outside the Community".

Article 7

In the first and the second indent of the second paragraph of Article 6 the wording "in any other country" is replaced by the wording "in any other country or in the Community"

Article 8

Article 13 is amended to read as follows

"Article 13

A plant variety right shall be exercised by the person entitled referred to in the previous Article who is domiciled or have its seat or establishment in a Community Member State.

Rights of a legal or natural person who is domiciled or have its seat or establishment outside the Community (further on as: foreign legal or natural person) shall be, as regards the protection of a plant variety right, the same in the Republic of Slovenia as that of a person entitled referred to in the previous

Article, providing this to result from international treaties and conventions, which had been signed or accessed to by the Republic of Slovenia, or under the conditions of actual reciprocity. The reciprocity shall be proved by the person referring to it.

A legal or natural person shall file an application through an authorised person, who is domiciled or have its seat or establishment in a Community Member State."

Article 9

In the first paragraph of Article 15 the third indent is amended to read as follows:

"– offering for sale, selling or other marketing,"

Article 10

In Articles 19, 20, 21, 22, 24, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 44, 45, and 46 the word "office" in all cases is replaced by the word the »competent body« in corresponding cases.

Article 11

The second paragraph of Article 48 is amended to read as follows:

"An action shall be brought before the court that has jurisdiction in disputes relating to intellectual property rights."

Article 12

Article 49 is amended to read as follows:

"Article 49

Supervision of the implementation of provisions of Articles 11, 15, 16 and 46 of this Act shall be exercised by phytosanitary, agricultural and forestry inspectors pursuant to competencies provided for with acts governing agricultural seeds and propagating material, forestry reproductive material and plant health.

When a phytosanitary, agricultural or forestry inspector, exercising the supervision, has reasons to believe that provisions of the Act have been violated, he shall prohibit production, reproduction, sale or other marketing of the material of a protected variety and order other appropriate measures."

Article 13

Article 51 is amended to read as follows:

"Article 51

A fine between SIT 500,000 and 30 million shall be imposed on a legal person or sole proprietor for committing any breach in relation to affecting the acts specified in the first paragraph of Article 15 of this Act without a permission given by the holder of the plant variety right.

A fine between SIT 100,000 and 1 million shall be imposed on the responsible person of a legal person or the responsible person of a sole proprietor for committing any breach referred to in the preceding paragraph.

A fine between SIT 100,000 and 300,000 shall be imposed on an individual person for committing any breach referred to in the first paragraph of this Article."

Article 14

Article 52 is amended to read as follows:

Article 52

A fine between SIT 350,000 and 30 million shall be imposed on a legal person or sole proprietor for

committing a breach:

- if, contrary to the first paragraph of Article 11, putting on the market material of a protected variety without stating the designated denomination or stating it incorrect;
- if, contrary to the fifth paragraph of Article 11, using denomination of a variety, which is protected under this Act, or any denomination which might be confused with it, in connection with another variety of the same or biologically related botanical species;
- if, contrary to the second paragraph of Article 16 or Article 46 of this Act, not providing a holder with the required information.

A fine between SIT 70,000 and 1 million shall be imposed on the responsible person of a legal person or the responsible person of a sole proprietor for committing any breach referred to in the preceding paragraph.

A fine between SIT 70,000 and 300,000 shall be

imposed on an individual person for committing any breach referred to in the first paragraph of this Article."

Article 15

This Act shall come into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

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