

## LEGISLATION

### CZECH REPUBLIC

#### ACT AMENDING ACT ON THE PROTECTION OF PLANT VARIETY RIGHTS No. 184/2008 Coll.\*

The parliament has adopted the following Act of the Czech Republic:

##### PART ONE

##### Amendment of the Act on the Protection of Plant Variety Rights

##### Section 1

Act No. 408/2000 Coll., on the Protection of Plant Variety Rights and the Amendment to Act No. 92/1996 Coll., on Plant Varieties, Seed and Planting Material of Cultivated Plants, as subsequently amended (the Act on the Protection of Plant Variety Rights), in the wording of amendments implemented by Act No. 147/2002 Coll., Act No. 149/2002 Coll., Act No. 219/2003 Coll., Act No. 377/2005 Coll. And Act No. 554/2005 Coll., shall be amended as follows:

1. In Article 1 at the end of the text of paragraph 2, the words "and processes the respective regulation of the European Communities 1b)" shall be added.

Footnote No. 1b shall be:

"1b) Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights."

2. In footnote No. 6, the number "22" shall be replaced with the number "32".

3. Article 11 shall be:

##### "Article 11

The Institute shall enter the application into the list of applications in the order in which it was delivered to it."

4. After Article 12, a new Article 12a shall be added, which including footnote No. 7 shall be:

##### "Article 12a

An application for grant of a Community plant variety right<sup>7)</sup> may be filed by means of the Institute. The Institute shall indicate the date of delivery on the application.

<sup>7)</sup> Art. 49 of Council Regulation (EC) No. 2100/9"

5. In Article 13(2) letter a) the words "under Article 11(2) or Article 16" shall be deleted.

6. In Article 13 after paragraph 2, the new paragraphs (3) and (4) shall be added, with the wording:

"(3) Objections may be applied only for the following reasons:

- a) the conditions laid down in Articles 4 to 6 or in Article 8 are not fulfilled,
- b) there is an impediment to a proposed variety denomination according to Article 7(2).

(4) Objections must be lodged in writing and must contain the following

- a) name or names, surname and address of the natural person, or commercial name, registered office or address of the organization unit in the Czech Republic and indication of the legal form of the legal person applying the objections,
- b) identification of the subject of the objection,
- c) justification of the application objection, including submission of evidence providing the justification of the applied objection.

The existing paragraph (3) shall become paragraph (5).

7. In Article 13(5) the words "until the decision under Article 11(2) or Article 16 has been issued" shall be replaced with the words "until the date of issue of the decision" and the part of the second sentence after the semi-colon shall be deleted.

8. In Article 14(1) the words "After all terms and requirements under Article 11(1) have been complied with" shall be deleted.

\* Translation provided by the Authorities of the Czech Republic. This Act entered into force on July 1, 2008.

9. In Article 16(1) the words "; otherwise the proceeding shall be terminated" shall be deleted.

10. In Article 21(5) and (6) the words "holder of a patent" are replaced with the words "proprietor of a patent".

11. In Article 23e (2) the words "first maintenance" shall be replaced with the word "maintenance", the word "annually" shall be added after the word "due" and the words "the name of which corresponds to the name of the calendar month" is added after the words "following the months".

12. In Article 23e paragraph (3) shall be deleted.

13. In Article 23i(1) the words "Unless this Act stipulates otherwise, with respect to the maintenance fee it is not possible" shall be replaced with the words "It is not possible with regards to the maintenance fee".

14. In Article 28(3) the words "shall be made" shall be replaced with the words "shall be issued".

15. In Article 28 paragraphs (1), (2) and (4) shall be deleted and the marking of paragraph (3) shall be repealed.

16. Annex No. 1 including the heading shall be:

"Annex No. 1 to Act No. 408/2000 Coll.

Plant Species List (Article 19a(1))

a) Cereals	
Avena sativa L.	Oat
Hordeum vulgare L.	Barley
Secale cereale L.	Rye
x Triticosecale Wittm.	
Ex. A. Camus	Triticale
Triticum aestivum L.	Common wheat
Triticum durum Desf.	Durum wheat
Triticum spelta L.	Spelt wheat

b) Fodder plants:	
Lupinus luteus L.	Yellow lupine
Medicago sativa L.	Luzerne
Pisum sativum L.	Field pea
Trifolium alexandrinum L.	Berseem/Egyptian clover
Trifolium resupinatum L.	Persian clover
Vicia faba L.	Field bean
Vicia sativa L.	Common vetch
Czech Republic	

c) Potatoes:  
Solanum tuberosum L. Potatoes

d) Oil and fibre plants:  
Brassica napus L. var. napus Swede rape  
Brassica rapa L. Turnip rape  
Linum usitatissimum L. Linseed  
(except flax)"

#### Transitional Provision

Proceedings not completed before the effective day of this Act shall be completed and the rights and obligations ensuring from them shall be assessed in accordance with the existing regulations. If a decision was cancelled and returned for reconsideration before the date of coming into effect of this Act, the procedure in accordance with existing regulations shall be applied.

#### PART TWO

##### Amendment of the Act on Courts and Judges

#### Section III

In Article 39(2) of Act No. 6/2002 Coll., Act on Courts, Judges, Lay Judges and State Administration of Courts and on the amendment of certain other Acts (Act on Court and Judges), as amended by Act No. 441/2003 Coll., Act No. 79/2006 Coll. and Act No. 221/2006 Coll., the words "and protection of plant variety rights" shall be added after the word "property 1a)."

Footnote No. 1b is worded:

"1b) Act No. 408/2000 Coll., on the protection of variety rights and the amendment of Act No. 92/1996 Coll., on plant varieties, seeds and planting material of cultivated plants, as amended (Act on the Protection of Plant Variety Rights), in the wording of Act No. 147/2002 Coll., Act No. 149/2002 Coll., Act No. 219/2003 Coll., Act No. 377/2005 Coll. and Act No. 554/2005 Coll."

#### PART THREE

#### EFFECTIVENESS

#### Section IV

This Act shall enter into effect on July 1, 2008.

Act. No. 184/2008 Coll.