

# RUSSIAN FEDERATION

## Law on the Protection of Selection Achievements \*

(of August 6, 1993)

### PART I

#### GENERAL PROVISIONS

#### Article 1

#### Definitions

For the purposes of this Law:

“selection achievement” means a plant variety or an animal breed;

“variety” means a plant grouping within a single botanical taxon, which grouping, irrespective of its protectability, can be defined by the expression of characteristics resulting from a given genotype or combination of genotypes and can be distinguished from any other plant grouping of the same botanical taxon by the expression of at least one of the said characteristics;

the variety may be represented by a single plant or plants as well as a part or parts thereof provided such part or parts may be used for the purpose of reproduction of entire plants of the variety; variety shall be deemed to comprise the following protected categories: clone, line, first generation hybrid, population;

“seeds” means a plant or parts thereof used for the purpose of reproduction of the variety;

“plant material” means a plant or parts thereof used for purposes other than reproduction of the variety;

“breed” means an animal grouping which, irrespective of its protectability, has genetically determined biological and morphological characteristics some of which are specific for the given grouping and distinguish it from other groupings. The breed may be represented by female or male animals or by breeding material; breed shall be deemed to comprise the following protected categories: type, crossing of lines;

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\* Russian Title: Zakon Rossiyskoy Federatsii o Selektionnich Doctizheniyach. English translations supplied by the Ministry of Agriculture of the Russian Federation.

“breeding animal” means an animal used for the purpose of reproduction of a breed;

“breeding material” means a breeding animal, gametes or zygotes (embryos) thereof;

“marketable animal” means an animal used for purposes other than reproduction of the breed;

“protected selection achievement” means a variety of plants or a breed of animals registered in the State Register of Protected Selection Achievements;

“applicant” means a natural person or legal entity who has filed an application for the grant of a patent for a selection achievement.

## **Article 2**

### **Legislation of the Russian Federation on Selection Achievements**

The legislation of the Russian Federation on the protection of selection achievements shall consist of this Law, legal acts adopted on the basis thereof by the constituent Republics within the Russian Federation and implementing provisions enacted by the State authorities within their competence.

## **Article 3**

### **Legal Protection of Selection Achievements**

Rights in a selection achievement shall be protected by Law and shall be certified by a patent on a selection achievement.

The patent shall certify the exclusive right of the patent owner to use the selection achievement.

The All-Russian State Commission for Testing and Protection of Selection Achievements (hereinafter referred to as “the State Commission”) shall, in accordance with this Law, carry out an integrated policy in the field of the legal protection of selection achievements in the Russian Federation. It shall receive applications for the protection of selection achievements, effect the examination, testing and registration thereof in the State Register of Protected Selection Achievements and the State Register of Selection Achievements Authorized for Use for Production Purposes, grant patents and certificates of authorship, publish official information relating to the protection of selection achievements and issue regulations and implementing provisions under this Law, and shall perform other functions specified in the Statute of the State Commission enacted by the Government of the Russian Federation.

The activities of the State Commission shall be financed from funds allocated for the purpose in the budget of the Russian Federation, fees collected in relation to patents and payments made for services and materials provided by the State Commission.

A selection achievement for which a patent has been granted by the State Commission shall be registered in the State Register of Protected Selection Achievements.

The scope of the legal protection conferred by a patent on a selection achievement shall be determined by the sum of its essential characteristics as contained in the description of the selection achievement.

The term of a patent on a selection achievement shall be 30 years from the date of registration of the selection achievement in the State Register of Protected Selection Achievements. For grapevines and ornamental, fruit and forest trees, including rootstock thereof, the said period shall be 35 years.

## PART II

### CONDITIONS OF PROTECTABILITY OF SELECTION ACHIEVEMENTS AND THE PROCEDURE FOR FILING AN APPLICATION FOR THE GRANT OF A PATENT

#### Article 4

#### Conditions of Protectability of Selection Achievements

(1) The patent shall be granted where the selection achievement satisfies the criteria of protectability and relates to the botanical or zoological genera and species a list of which shall be determined by the State Commission subject to the international obligations of the Russian Federation.

(2) The said criteria shall be the following:

(a) Novelty.

A plant variety or animal breed shall be deemed to be new if, at the date of filing of the application for the grant of a patent, the seeds or breeding material of the given selection achievement has not been sold or otherwise disposed of to others, by or with the consent of the breeder or his successor in title, for purposes of exploitation of the selection achievement

(i) in the territory of the Russian Federation, earlier than one year before that date;

(ii) in the territory of any other State, earlier than four years or, in the case of grapevines and ornamental, fruit and forest trees, earlier than six years before the said date.

(b) Distinctness.

A selection achievement shall be clearly distinct from any other commonly known selection achievement existing at the time of the filing of the application.

Commonly known selection achievements may be those which have been entered in an official register of selection achievements or reference files, or of which a precise description has been published.

The filing of an application for the grant of a patent or an authorization to use the selection achievement shall likewise render that selection achievement a matter of common knowledge from the date of the application, provided that the application leads to the grant of the patent or the authorization.

(c) Uniformity.

A plant variety or animal breed shall be sufficiently uniform in its relevant characteristics, subject to the variation that may be expected from the particular features of its propagation or reproduction.

(d) Stability.

A selection achievement shall be deemed stable if its relevant characteristics remain unchanged after repeated propagation or reproduction or, in the case of a particular cycle of propagation or reproduction, at the end of each such cycle.

(3) Notwithstanding the provisions of paragraph (2)(a) of this Article, protection may be granted to varieties and breeds which, at the date of entry of the corresponding genus and species in the list of protected selection achievements, have been registered in the State Register of Selection Achievements Authorized for Use for Production Purposes. The priority of the selection achievements shall be determined by the date of receipt by the State Commission of the application containing the request for the grant of an authorization to use the said selection achievement.

The term of a patent provided for in Article 3 shall be reduced in relation to such selection achievement by the period starting from the year in which the authorization to use has been granted and ending in the year in which a patent has been granted. No provisional protection provided for in Article 15 shall apply for such selection achievements.

## Article 5

### Application for the Grant of a Patent

The right to file an application for the grant of the patent shall belong to the breeder or his successor in title. The application shall be filed with the State Commission.

Where a variety or breed has been developed, bred or discovered in the line of duty, the right to file an application for the grant of the patent shall belong to the employer unless otherwise provided in the employment contract.

Where there are several persons who jointly bred, developed or discovered the same selection achievement or who are the joint successors in title thereof, they may file the application jointly.

Applications may be filed through patent agents, whose powers shall be certified in a power of attorney, and who shall act in all proceedings conducted for the grant of patents.

No staff member of the State Commission or its affiliates located in the constituent Republics within the Russian Federation, autonomous regions or areas shall have the right to file an application for the grant of a patent for the duration of his employment contract.

The application for the grant of a patent shall contain:

- the request for the grant of a patent,
- the particulars of the selection achievement,
- proof of payment of the prescribed fee or of circumstances affording entitlement to exemption from payment, or to a reduction in the amount of the prescribed fee.

Requirements for the above -mentioned documents shall be established by the State Commission.

The applications shall relate to one single selection achievement.

Where the application is filed by the employer, it shall be accompanied by proof of a contract concluded with the author of the selection achievement in conformity with the provisions of the paragraph 2 of this Article.

Documents for the application shall be written in Russian or another language. Where they are written in a language other than Russian, the application shall be accompanied by a Russian translation of those documents.

## **Article 6**

### **Denomination of Selection Achievement**

The selection achievement shall be designated by a denomination proposed by the applicant and approved by the State Commission.

The denomination must enable the selection achievement to be identified. It must be short and different from every denomination which designates an existing selection achievement of the same or of a closely related plant or animal species. It may not consist solely of figures. It must not be liable to mislead concerning the characteristics, origin or value of the selection achievement or the identity of the breeder. It must not be contrary to humanitarian principles or morality.

Where the denomination proposed by the applicant does not satisfy the requirements of this Article, he shall be required to submit another denomination within the period prescribed by the State Commission.

Any person who uses the protected selection achievement shall be required to use the denomination thereof registered in the State Register of Protected Selection Achievements.

The denomination may be changed with the consent of the State Commission where valid reasons are supplied in support of the change.

## **Article 7**

### **Priority of the Selection Achievement**

The priority of the selection achievement shall be determined by the date of receipt by the State Commission of the application for the grant of a patent or of the request for the grant of an authorization to use the selection achievement.

Where two or more applications claiming the same selection achievement are received by the State Commission on the same day, the priority shall be determined by the application whose sending date is earlier. Where the examination finding is that the said applications have the same sending date, the patent may be granted on the application having an earlier registration number with the State Commission, unless the agreement between the applicants provides otherwise.

Where an application with the State Commission was preceded by an application filed by the applicant in any State party to an agreement for the protection of selection achievements concluded with the Russian Federation, the applicant shall enjoy the priority of the first application within 12 months from the filing date thereof.

The applicant shall, when filing the application with the State Commission, indicate the date of priority. Within six months following the date of receipt of the application by the State Commission, the applicant shall be required to furnish a copy of the first application duly certified by the competent authority of the State where it has been filed. That copy should be accompanied by a translation thereof in Russian. Where the applicant complies with the said conditions, he shall not be required to

furnish the additional documents and any material necessary for the purposes of testing for a period of three years following the filing date of the first application.

### PART III

#### EXAMINATION OF PROTECTABILITY OF SELECTION ACHIEVEMENTS

##### Article 8

##### Preliminary Examination of Patent Applications

A preliminary examination shall be carried out within a period of one month in order to determine the priority date and to verify the presence of the required documents and their compliance with the prescribed conditions.

The State Commission may request the applicant to furnish, within the prescribed time limit, missing or corrected documents relating to the application.

During the preliminary examination the applicant may, on his own initiative, supplement, clarify or correct any part of the application.

If the applicant fails, within the prescribed time limit, to furnish the corrected documents or documents missing at the filing date, the application shall be rejected and the applicant shall be notified accordingly.

Where the applicant wishes to contest the decision taken in the preliminary examination, he may do so, within three months following the date of receipt of the decision, by lodging an appeal with the courts.

Where the preliminary examination of an application has produced a favorable result, the applicant shall be notified to the effect that his application has been accepted.

The particulars of the accepted applications shall be published in the Official Gazette.

##### Article 9

##### Examination of Novelty of the Selection Achievement

Any interested party may, within six months following the date of publication of the particulars of the application, file with the State Commission a notice of opposition contesting the novelty of the claimed selection achievement.

The State Commission shall notify the applicant of the notice and give the essential grounds of the opposition. In the case of disagreement with the notice of opposition the applicant may, within three months from the date of receipt of the said notice, lodge an appeal with the State Commission stating the grounds thereof.

The State Commission, on the basis of all available documents, shall take a decision and shall notify the interested parties accordingly.

Where the claimed selection achievement does not comply with the condition of novelty, a decision to refuse the patent grant shall be taken.

## **Article 10**

### **Testing Distinctness, Uniformity and Stability of the Selection Achievement**

Testing of the selection achievement as to its compliance with the conditions of distinctness, uniformity and stability shall be carried out in accordance with a methodology and within the periods prescribed by the State Commission.

The applicant shall furnish a quantity of seeds or breeding material required for the purposes of testing and shall deliver the same to the address specified and within periods prescribed by the State Commission.

The State Commission may take into account the results of tests which have been carried out by the competent authorities of other States on the basis of bilateral agreements, the results of tests which have been carried out by other organizations of the Russian Federation on the basis of contracts concluded with the State Commission, as well as data provided by the applicant.

Where the selection achievement is found to comply with the requirements of protectability and its denomination is found to meet the conditions prescribed in Article 6 of this Law, the State Commission shall take a decision to grant the patent and shall make the description of the selection achievement.

## **PART IV**

### **PROTECTION OF SELECTION ACHIEVEMENTS**

## **Article 11**

### **Registration of a Selection Achievement**

The State Register of Protected Selection Achievements shall include the following entries:

- genus and species of the variety or breed;
- denomination of the variety or breed;
- date of registration of the selection achievement and registration number thereof;
- family name, forenames and patronymic of the patent owner and his address;
- family name, forenames and patronymic of the author of the selection achievement and his address;
- information on the act of assignment of the patent to another person indicating his family name, forenames and address;
- information on the grant of any exclusive, open or compulsory license;
- date of expiration of the patent stating the grounds thereof.

## **Article 12**

### **Patent**

The patent shall be granted to the applicant. Where several applicants are indicated in the request for the grant of a patent, the patent certificate shall be granted to the applicant whose name is mentioned first. The conditions for the joint exercising of the rights conferred by the patent shall be determined by agreement between them.

In the case of loss or damage of the patent certificate a duplicate may be issued subject to the payment of the prescribed patent fee.

## **Article 13**

### **Rights of the Patent Owner**

(1) The exclusive right of the patent owner shall mean that any person who wishes to perform the following acts in respect of the seeds of the protected variety or breeding material of the protected breed shall be required to obtain a license from the patent owner:

- (a) production or reproduction,
- (b) conditioning for the purpose of propagation,
- (c) offering for sale,

- (d) selling or otherwise marketing,
- (e) exporting from the territory of the Russian Federation,
- (f) importing into the territory of the Russian Federation,
- (g) stocking for any of the aforementioned purposes.

(2) The right of the patent owners shall also extend to plant material produced from the protected seeds or marketable animals bred from the protected breeding animals which have been put on the market without the authorization of the patent owner.

(3) The authorization of the patent owner shall be required for the performance of acts specified in paragraph (1) of this Article in relation to

(a) seeds of varieties or breeding material of breeds which are essentially derived from the protected (initial) variety or breed, where the protected variety or breed is not itself an essentially derived selection achievement,

(b) seeds of varieties or breeding material of breeds which are not clearly distinguishable from the protected variety or breed,

(c) seeds of varieties whose production requires the repeated use of the protected variety.

A selection achievement shall be deemed to be essentially derived from another (initial) selection achievement when, being clearly distinguishable from the initial variety or breed,

- it is predominantly derived from the initial selection achievement, or from a selection achievement that is itself predominantly derived from the initial selection achievement, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial selection achievement,

- except for the differences which result from the act of derivation, such as individual selection from the initial selection achievement, selection of an induced mutant, backcrossing, or transformation by genetic engineering, it conforms to the genotype or combination of genotypes of the initial selection achievement.

## Article 14

### Acts Not Infringing the Rights of the Patent Owner

The performance of the following acts in respect of the protected selection achievements shall not constitute an infringement of the rights of the patent owner:

- (a) acts done privately and for non-commercial purposes,

(b) acts done for experimental purposes,

(c) the use as the initial material for the purpose of breeding other varieties and breeds, as well as acts referred to in Article 13(1) of this Law in relation to these selection achievements, except for the cases provided for in Article 13(3),

(d) the use, for the duration of two years, of the plant material gained on farms as seeds for the propagation of the variety on their own holdings (a list of plant genera and species shall be determined by the Government of the Russian Federation),

(e) the reproduction of marketable animals for purposes of use on given farms,

(f) any acts in relation to seeds, plant material, breeding material and marketable animals which have been sold or otherwise marketed by the patent owner or with his consent, unless such acts

- involve further propagation of the variety or further reproduction of the breed in question or

- involve an export from the territory of the Russian Federation of plant material or marketable animals, which enables the propagation of the variety or the reproduction of the breed, into a country which does not protect the genus or species to which the variety or breed belongs, except where the exported material or animals are for final consumption purposes.

## **Article 15**

### **Provisional Legal Protection of Selection Achievements**

During the period between the date of receipt of the application by the State Commission and the date of the grant of the patent the applicant shall enjoy provisional legal protection of his selection achievement.

After the patent has been granted the patent owner shall be entitled to compensation from any person who, during the period of the provisional legal protection, has performed without the authorization of the owner of the patent acts specified in Article 13(1) of this Law.

During the period of the provisional legal protection of the selection achievement the applicant shall be authorized to sell or otherwise furnish seeds of the variety or breeding material of the breed for scientific purposes or where such acts are performed in connection with the assignment of rights in a selection achievement, or where the production of seeds or breeding material is commissioned by the applicant for the purpose of the creation of stocks.

The provisional legal protection shall be deemed never to have been granted where the applicant or any other person with his consent has failed to comply with the said conditions.

## PART V

### THE USE OF SELECTION ACHIEVEMENTS

#### Article 16

##### License Contract

Under a license contract (exclusive or non-exclusive license) the owner of a patent (the licensor) grants, against the payments specified in the contract or gratis, the right to use the selection achievement to another person (the licensee).

An exclusive license contract affords the licensee the exclusive right to use the selection achievement within the limits specified in the contract beyond which the licensor retains the said right.

A non-exclusive license contract allows the licensor to retain all rights deriving from the patent on the selection achievement including the right to grant licenses to third parties.

A license contract shall be concluded in writing.

An exclusive license contract shall be effective after its registration with the State Commission.

#### Article 17

##### The Right of the Licensee

The licensee shall have the right, during the life of the patent, to use the protected selection achievement in the territory of the Russian Federation and to perform acts stipulated in Article 13(1) of this Law, except where the license contract provides otherwise.

The licensee may not transfer the license to third parties neither may he grant a sublicense, except where the license contract provides otherwise.

#### Article 18

##### Terms and Conditions of the License Contract

## **Limiting the Rights of the Licensee**

No terms and conditions of the license contract shall impose limitations on the licensee unless they arise out of the rights conferred by the patent or are necessary to maintain it in force.

## **Article 19**

### **Open License**

The owner of a patent may publish in the Official Gazette of the State Commission a notice to the effect that he undertakes to grant, subject to the payment of the amounts specified in the notice, a license to use the selection achievement to any interested party as from the date the latter has notified the patent owner of his intention.

The State Commission shall register the grant of an open license in the State Register of Protected Selection Achievements with the specified amount of payments.

In such a case the maintenance fees shall be reduced by 50% as from January 1 of the year following the year of publication of the notice relating to the offering of an open license.

At the request of the patent owner and subject to the consent of all the holders of an open license the State Commission shall register the lapse of the open license in the State Register of Protected Selection Achievements.

## **Article 20**

### **Compulsory License**

Any person may file an application with the State Commission requesting the grant of a compulsory license.

The State Commission shall only grant a compulsory license where the following conditions are fully met:

(a) the application requesting the grant of a compulsory license has been filed after three years have passed since the date of the patent grant;

(b) the patent owner has refused the applicant the right to produce or market the seeds or breeding material or does not intend to grant the right;

(c) there are no legitimate reasons hindering the patent owner from granting the applicant the right to use his selection achievement;

(d) a person requesting the grant of a compulsory license has produced proof of being in a position, both financially and otherwise, to use the license in a competent and efficient manner;

(e) the amount of the prescribed fee for the grant of a compulsory license has been paid.

The compulsory license may confer on the licensee the right to perform acts referred to in Article 13(1) of this Law. In such a case the patent owner shall retain all the rights deriving from a selection achievement patent.

When granting a compulsory license the State Commission shall fix the amounts to be paid by the licensee to the patent owner.

At the request of the State Commission the patent owner shall furnish the licensee, against payment of monetary compensation and on reasonable terms, with seeds of the variety or breeding material of the breed in a quantity sufficient for the purposes of the compulsory license.

The State Commission shall grant a compulsory license for a period not exceeding four years. The said period may be extended if the inspection finds that the grounds prevailing at the time the compulsory license was granted still exist.

The State Commission shall revoke a compulsory license if its owner has infringed the term under which the license had been granted.

A decision to grant or revoke a compulsory license taken by the State Commission may be contested in the courts.

When taking a decision the courts may modify the initial terms of the grant of a compulsory license determined by the State Commission.

## **Article 21**

### **The Right of a Licensee to start Legal Proceedings**

Where the rights of the patent owner are infringed, the licensee has the right to start legal proceedings in the prescribed manner.

## PART VI

### THE RIGHTS OF AN AUTHOR OF A SELECTION ACHIEVEMENT

## **Article 22**

### **The Certificate of Authorship**

The certificate of authorship shall attest the authorship of a selection achievement and the entitlement of the author to remuneration to be paid by the patent owner for the use of this selection achievement.

The State Commission shall issue a certificate of authorship to each author who is not the patent owner.

A natural person whose creative work resulted in the breeding, development or discovery of a selection achievement shall be recognized as the author thereof.

Any disputes arising from the authorship shall be referred to the courts.

### **Article 23**

#### **Remuneration to be Paid to the Author of a Selection Achievement who is not the Patent Owner**

The author of the selection achievement shall, for the life of the patent, be entitled to remuneration to be paid by the patent owner for the use of the selection achievement bred, developed or discovered by him. The amount of remuneration and the terms of the payments shall be stipulated in a contract between the patent owner and the author. The amount of remuneration shall not be less than 2 percent of the annual proceeds derived by the patent owner from the use of the protected selection achievement, including the earnings derived from the sales of licenses.

Where a variety or breed is bred, developed or discovered by two or more authors, their shares of remuneration shall be determined by agreement between them.

The remuneration shall be paid to the author within six months after the end of each year in which the selection achievement is used.

If the remuneration is not paid on time, the patent owners shall pay the author, for each day's delay, a monetary penalty the amount of which shall be stipulated in the contract.

## **PART VII**

### **REGULATION BY THE STATE OF THE CREATION AND USE OF SELECTION ACHIEVEMENTS**

### **Article 24**

#### **Promotion by the State of the Creation and Use**

## **of Selection Achievements**

The States shall promote the creation and use of selection achievements and shall grant authors thereof and economic entities using such varieties and breeds tax advantages, favorable credit terms and other benefits under the legislation of the Russian Federation.

The breeding activities shall be of prior importance and shall be financed from the Republican budget of the Russian Federation.

Any profits (proceeds), including foreign currency earnings derived by the patent owner and the licensees from the use of a protected selection achievement, shall be exempt from taxation for two years after the variety or breed has been authorized for use. For grapevines and ornamental, fruit and forest trees, including rootstocks thereof, the said period shall be five years.

Profits (proceeds) gained by an organization financed from the State budget through the use of a selection achievement remain entirely at the disposal of the organization.

## **Article 25**

### **Maintenance of Selection Achievements**

The patent owners shall, throughout the life of the patent, maintain the variety or breed in such a way that all characteristics defined in the description of the variety or breed at the date of registration thereof in the State Register of Protected Selection Achievements are maintained.

At the request of the State Commission the patent owner shall furnish seeds of the variety or breeding material of the breed for the purposes of testing a new variety or breed and provide the opportunity for in situ inspection.

## **Article 26**

### **Revocation of Patent**

Any natural person or legal entity may request the State Commission to revoke the granted patent.

The State Commission shall bring a copy of the request to the attention of the patent owner. The patent owner may, within three months from the date of receipt of the said copy, furnish his reply stating valid reasons in support of the grant.

The State Commission shall take a decision on the request within six months unless additional testing is required.

The State Commission shall revoke the patent when it is established

(a) that the patent has been granted on the basis of unconfirmed information with respect to uniformity and stability of the selection achievement provided by the applicant;

(b) that the conditions of novelty or distinctness were not complied with at the date of the grant of the patent;

(c) that the person who appears in the patent document as the owner of the patent has no legal basis for receiving the patent.

### **Article 27**

#### **Cancellation of Patent**

The State Commission shall cancel the patent if it is established

that the selection achievement no longer meets the conditions of uniformity and stability,

that the patent owner has failed, within the 12 months period, to provide at the request of the State Commission seeds, breeding material, documents or information necessary for the control of the maintenance of the selection achievement or to provide an opportunity for in situ inspection for this purpose;

that the patent owner has failed to pay, within the prescribed time limit, the maintenance fee;

that the patent owner has failed to propose, where the denomination of the variety is cancelled, another suitable denomination.

### **Article 28**

#### **Liability for Infringement of the Rights of Patent Owners**

Any natural person or legal entity who uses the selection achievement in a manner contrary to the requirements prescribed by this Law shall be deemed an infringer of the rights of the patent owner.

At the request of the patent owner or the State Commission, the infringement of the patent shall cease and the owner of the patent shall be compensated by the infringer for damages sustained.

Damages may also be claimed by the owner of an exclusive or non-exclusive license except where the license contract provides otherwise.

## **Article 29**

### **Liability for Infringement of Other Rights of the Patent Owner and the Breeder**

(1) Any natural person or legal entity who:

(a) uses for the produced and/or sold seeds or breeding material a denomination which is different from the registered denomination of that selection achievement;

(b) uses for the produced and/or sold seeds or breeding material the denomination of a registered selection achievement where the said seed or breeding material is not that of the registered selection achievement;

(c) uses for the produced and/or sold seeds or breeding material a denomination which is so similar to the denomination of a registered selection achievement that it is misleading;

(d) makes a false entry in the State Register of Protected Selection Achievements or in reports or causes it to be made therein;

(e) forges or prepares the forgery of documents to fulfill the conditions required under the provisions of this Law, or instigates such forgery or its preparation;

(f) furnishes documents containing false information on the selection achievement;

(g) sells these seeds or breeding material without the certificate,

shall be deemed to be infringing the rights of the patent owner.

(2) Persons committing the acts referred to in paragraph (1) of this Article shall be responsible under the legislation in force.

(3) Any dispute arising from the application of this Law shall be referred to the courts.

## **Article 30**

### **Publications**

(1) The State Commission shall publish an Official Gazette containing the following information:

(a) the particulars of applications for the grant of a patent received, stating the priority date of the selection achievement, the name of the applicant, the denomination

of the selection achievement, the name and forenames of the author where the latter has not waived his right to be identified in that capacity;

(b) any decision taken in respect of an application;

(c) any change in the denomination of a selection achievement;

(d) any decision for revocation or cancellation of patents;

(e) any other information relating to the protection of selection achievements.

(2) Any natural person or legal entity shall have the right to inspect the documents of an application received once the particulars of the application and any decision in respect thereof have been published.

### **Article 31**

#### **Appeals Against Decisions Taken by the State Commission**

Any decision to grant a patent, to refuse a grant, or to revoke or cancel a patent taken by the State Commission may be contested in court proceedings.

### **Article 32**

#### **The Use of Selection Achievements**

The entry of plant varieties and animal breeds in the State Register of Selection Achievements Authorized for Use for Production Purposes shall be effected by the State Commission on the basis of the results of State tests carried out in order to determine the economic utility of the selection achievement.

With regard to specific genera and species a list of which shall be determined by the State Commission, the entry in the State Register of Selection Achievements Authorized for Use for Production Purposes shall be effected on the basis of expert evaluation and information provided by the applicant.

Seeds or breeding material marketed in a given region of the Russian Federation shall be supported by a certificate attesting the variety or breed, origin and quality thereof. The certificate shall be issued only for seeds of the variety or breeding material of the breed which has been authorized for use in that region.

No authorization for use in a given region shall be required for the reproduction of seeds or breeding material intended for the purpose of export from that region.

With respect to selection achievements registered in the State Register of the Protected Selection Achievements, the certificate shall only be issued in support of seeds or breeding material which has been procured on legitimate grounds.

A request for the grant of an authorization to use a plant variety or animal breed shall be filed with the State Commission. The request shall be accompanied by a description of the selection achievement, a guarantee to provide free of charge seeds or breeding material thereof in the quantity necessary for the purposes of testing, proof of payment of the prescribed filing fee, a guarantee to pay the prescribed fee for carrying out State tests in order to determine the economic utility of the selection achievement.

In order to carry out the State economic utility tests of a plant variety in the next agricultural season, the request shall not be filed later than the time limit prescribed by the State Commission.

### **Article 33**

#### **Patent Fees**

Fees shall be collected for the performance of any legal acts in relation to selection achievement patents. The patent fees shall be payable to the State Commission. A list of acts for which fees are payable, the amounts of the fees and the time limits for the payment thereof, and also the conditions governing exemption from fees and the reduction or reimbursement of fees, shall be determined by the Government of the Russian Federation.

## PART VIII

### INTERNATIONAL COOPERATION

#### **Article 34**

##### **The Right to File an Application Abroad**

The breeder or his successor in title shall have the right to file an application for the grant of a selection achievement patent with a competent authority of any foreign State.

The cost of obtaining a protection right for a selection achievement shall be borne by the applicant.

#### **Article 35**

##### **Rights of Foreign Natural Persons and Legal Entities**

Foreign natural persons and legal entities shall, on the basis of international treaties to which the Russian Federation is party, or on the basis of reciprocity, enjoy the rights provided for in this Law and regulatory acts of the Russian Federation in the field of protection of selection achievements on the same footing as natural persons and legal entities of the Russian Federation.

### **Article 36**

#### **The Effect of International Treaties**

Where an international treaty to which the Russian Federation is party contains provisions different from those specified in this Law, the former shall prevail.