

REPUBLIC OF CROATIA

**THE LAW OF ALTERATIONS AND AMENDMENTS
ON
THE PLANT VARIETY PROTECTION LAW**

APPROVED BY THE PARLIAMENT OF THE REPUBLIC OF CROATIA

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Article 1.

In the Plant Variety Protection Law (published in the “Official Gazette” of the Republic of Croatia No. 131/97) in Article 5 paragraph (2) after “and issue professional opinions and proposals” shall be inserted “and give consent in the procedures of grant of Breeders’ Rights.”

Article 2.

In Article 8 paragraph (1) shall be substituted with – “The variety is new if, at the date of filing of application for a breeders’ rights, propagating or harvested material of the variety has not been sold or otherwise disposed of to others, by or with consent of the breeder for purposes of exploitation of the variety in the territory of the Republic of Croatia for longer than one year or, in a territory other than the Republic of Croatia for longer than four years”.

In paragraph (3) of the same article the word “registered” shall be deleted.

Article 3.

In article 9 paragraph (3) the word “may” shall be substituted with the word “must”.

Article 4.

In Article 12 after paragraph (1) shall be inserted two new paragraphs (2) and (3):

“(2) The acts referred to in paragraph (1) 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 reasonable opportunity to exercise his right in relation to the said propagating material.

(3) The acts referred to in paragraph (1) in respect of product made directly from harvested material of the protected variety falling within the provisions of paragraph (2) through the unauthorised use of the said harvested material shall require the authorisation of the breeder, unless the breeder has had reasonable opportunity to exercise his right in relation to the said harvested material.”

The previous paragraphs (2) and (3) shall become paragraphs (4) and (5).

Article 5.

In the Article 13 item 1 shall be substituted with -

“1. varieties which are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety.

Article 6.

Article 14 shall be substituted as follows:

“(1) The breeders’ right shall be granted for a fixed period.

(2) Minimum period shall not be shorter than 20 years from the date of grant of the breeder’s right and for trees and vines shall not be shorter than 25 years.

Article 7.

In Article 16 item 3 the words “declared null” shall be substituted with the word “cancelled”.

Article 8.

After Article 18 shall be inserted the new article 18a. as follows:

“Article 18a.

(1) Any breeder who has duly fielded an application for the protection of a variety in one of the Contracting Parties (the “first application”) shall, for the purpose of filing an application for the grant of breeders’ rights for the same variety with the authority of any other Contracting Party, enjoy a right of priority for a period of 12 months. This period shall be computed from the date of filing of the first application.

(2) In order to avail himself of the right of priority, the applicant shall submit to the Institute, within three months from the filing date of the application at the Institute, a copy of the first application, certified to be a true copy by the authority with which that application was filed together with an application specified in Article 18 paragraph (1).

(3) The breeder shall be allowed a period of two years after the expirations of the period of priority from paragraph (1), in which to furnish the Institute with any necessary information, document or material required for the purpose of examination under Article 24.

(4) The breeder shall be allowed where the first application is rejected or withdrawn, an appropriate time after such rejection or withdrawal, in which to furnish the Institute with any necessary information and document. The material, required for the purpose of examination under Article 24., shall be furnished within the period specified for the species concerned and shall be regulated by the Minister.”

Article 9

In the article 25 paragraph (1) after word: “Institute” there shall be inserted: “with the previous consent of the Commission mentioned in article 5 paragraph (2) of this Law:”

Article 10

After the article 31 shall be inserted the new sub-heading as follows:

“5. Special cases for cancellation and nullity of the official decision on the breeders’ rights.”

Article 11

Article 32 shall be substituted as follows:

“(1) The Institute shall annul an Official Decision on the breeders’ rights where it is established:

1. that the variety was not new or distinct at the date of filing of the application specified in article 18 paragraph (1) or, where relevant, at the date of priority;
 2. that, where the breeders’ rights have been granted essentially on the basis of information and documents submitted by the applicant, the variety was not uniform or stable at the date refers to in 1;
 3. that the breeders’ rights have been granted to a person who is not entitled to them and the entitled person has not brought an action under Article 43.
- (2) An Official Decision from the paragraph (1) shall be published in the official journal of the Institute.”

Article 12.

After article 33 shall be inserted the new article 33a. as follows:

“Article 33a.

(1) The Institute shall cancel an Official Decision on the breeders’ rights where it is established that:

1. the variety is no longer uniform or stable.
2. the owner of the rights within 1 month period:
 - does not provide the Institute with the information, documents or material deemed necessary for verifying the maintenance of the variety;
 - does not propose a suitable denomination to replace the existing one, where the Institute proposes to cancel the latter after the breeders’ rights has been granted.

(2) An Official Decision from paragraph (1) shall be published in the official journal of the Institute.”

Article 13.

In the article 38 paragraph (2) shall be substituted with -

“(2) The Institute shall grant a compulsory license on request if the exercise of the breeders’ rights is in the public interest.”

Article 14.

The article 43 shall be substituted as follows:

“Where breeders’ rights have been granted to a person who was not entitled to those rights, the entitled person may apply to competent court to be declared as the person to be granted the breeders’ rights.”

Article 15.

In the title and all provisions of the Law words “agricultural plant variety” shall be substituted with “plant variety”.

Article 16.

This Law shall enter into force on the eighth day after its publication in the Official Gazette of the Republic of Croatia.

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Zagreb, 14th June 2000

PARLAMENT OF THE REPUBLIC OF CROATIA
HOUSE OF REPRESENTATIVES

President of the House of Representatives
Zlatko Tomčić