

**THE LAW OF UKRAINE No 2763-IX****On Amending Certain Legislative Acts of Ukraine to Harmonize Legislation in the Sphere of Plant Variety Rights Protection and Seed and Seedling Production with the Provisions of the European Union Legislation**

The Verkhovna Rada of Ukraine **decrees**:

I. Amend the following legislative acts of Ukraine:

1. In [the Civil Code of Ukraine](#) (Annuals of the Verkhovna Rada of Ukraine, 2003, Nos. 40-44, Article 356):

1) [Clause 3](#) of the first part of Article 485 shall be deleted;

2) [paragraphs 1](#) and [2](#) of the first part of Article 486 shall be amended as follows:

"1) the author of a variety of plants, breeds of animals, a breeder of varieties of plants, breeds of animals;

2) other persons who have acquired intellectual property rights to a variety of plants, a breed of animals by deed or law";

3) [Article 488](#) shall be amended as follows:

" **Article 488.** Term of validity of property rights of intellectual property on a variety of plants, breed of animals

1. Property rights of intellectual property on a variety of plants, a breed of animals, certified by a patent, are valid from the date following the date of their state registration, provided that such rights are maintained in accordance with the law.

2. The law may establish conditions for the temporary validity of property rights of intellectual property on plant varieties, animal breeds until they come into force in accordance with the first part of this article.

3. The term of validity of the exclusive property rights of intellectual property for the breed of animals expires on the last day of the thirtieth year, counted after the year of state registration of such rights.

4. The term of validity of exclusive property rights of intellectual property on plant varieties shall be established by law."

2. In [the Law of Ukraine](#) "On Protection of Rights to Plant Varieties" (Vedomosti Verkhovna Rada of Ukraine, 2002, No. 23, Article 163):

<sup>1</sup>) [Articles 1](#), [3](#), [3-1](#), [5](#) shall be amended as follows:

**Article 1.** Definition of terms

In this Law, the following terms are used in the following sense:

the author of the variety - a natural person who directly bred, invented or improved the variety;

author's fee - payment to the author of the variety for breeding, inventing or improving the variety, which is paid in accordance with the terms of the contract;

variety database - an automated information system consisting of a system of interconnected electronic resources and/or registers. Such a system contains information on varieties, actions and status according to the variety application defined by this Law and provides technical

capabilities for storage, providing access to available information and carrying out the procedure of state registration of the variety and rights to the variety using electronic services;

database of the International Union for the Protection of New Varieties of Plants (Union internationale pour la Protection des Obtentions Vegetales" (hereinafter - UPOV) - information on plant variety applications provided by the contracting parties to the Convention and published on the official website of the International Union for the Protection of New Varieties [of Plants](#) ;

parental components - plant varieties that are components of the first generation hybrid (inbred line, hybrid), used for its breeding or reproduction;

botanical taxon - a taxonomic category established for a separate group of plants related to each other by a common set of signs and properties;

use of the variety - implementation of one or more actions regarding the seeds and/or planting material of the variety:

production, reproduction and/or conditioning for the purpose of reproduction;

offer for sale, sale and/or other commercial circulation;

export outside the customs territory of Ukraine or import into the customs territory of Ukraine, as well as storage for any of the specified purposes;

a contracting party to the Convention is a state or an intergovernmental organization that has joined [the International Convention for the Protection of New Varieties of Plants](#) , concluded on December 2, 1961 in Geneva, taking into account the changes introduced by the Additional Acts of November 10, 1972, October 23, 1978 and March 19 1991;

state registration of rights to a variety - official recognition and certification by the state of the facts of the emergence, termination and, in cases established by law, transfer of intellectual property rights to a variety by entering relevant information into the State Register of Patents for Plant Varieties on the basis of the decision of the Competent Authority on state registration of rights to a variety in the manner established by this Law;

state registration of a variety - official recognition and certification by the state of the right to distribute a variety by entering relevant information about the variety into the State Register of plant varieties suitable for distribution in Ukraine, based on the decision of the Competent Authority on state registration of the variety in the manner established by this Law;

The State Register of Patents for Plant Varieties (hereinafter - the Register of Patents) - the official list of varieties, intellectual property rights to which are certified by variety patents, and patent information about such varieties;

The State Register of Plant Varieties Suitable for Distribution in Ukraine (hereinafter - the Register of Varieties), - the official list of varieties suitable for distribution in Ukraine;

expert opinion on the variety application (hereinafter - expert opinion) - documented results of the qualification examination of the variety for making a decision on the state registration of the rights to the variety and/or the state registration of the variety or on the refusal of the state registration of the rights to the variety and/or the state registration of the variety ;

expert institution - an enterprise, institution or organization authorized by the Competent Body to exercise certain powers in the field of protection of rights to plant varieties in accordance with this Law;

applicant - a person who submitted an application for a variety and/or acquired the applicant's rights in accordance with the procedure established by law;

the object of the variety application is the plant variety for which the application is submitted;

official sample - planting material provided for long-term storage, as well as for the purpose of establishing the preservation of the characteristics of the variety in the order established by the Competent Authority;

official sources of information about applications for varieties and varieties of plants - official publications, information published on the websites of the Competent Body and expert institution, information published in the Register of Applications, the Register of Patents, the Register of Varieties, the Register of Representatives on Intellectual Property for Plant Varieties;

maintainer of a variety - a person who, without acquiring intellectual property rights to the variety, ensures the preservation of the variety by maintaining the characteristics determined during the state registration of the variety, and who distributes the variety, which is a variety in the public domain or a common variety, or distributes the variety in other cases specified by this Law ;

planting material - seeds or planting material considered suitable for the reproduction of whole plants;

representative - a person who acts in the interests of the applicant and/or other subjects of rights regarding the variety for the purpose of performing any legal actions, the right to perform which he acquired on the basis of a deed or law;

Register of applications - a list of official information about applications for a variety, maintained in electronic form;

Register of representatives on matters of intellectual property of plant varieties (hereinafter - Register of representatives) - an official list of persons acting on behalf of the authors of the variety, breeders, applicants, patent holders, owners of the property right to distribute the variety, supporters of the variety;

breeder - a person who bred, invented or improved a variety; a person who has or had employment or civil-law relations with a person who bred, invented or improved the variety (employer, customer), related to the breeding, invention or improvement of the variety; a person who is a legal successor (heir) of the specified persons;

variety of plants (further - variety) - a separate group of plants (clone, line, hybrid of the first generation, population) within the framework of the lower known botanical taxa (genus, species, variety), regardless of whether it meets the conditions for the emergence of legal protection that can be to be determined by the degree of manifestation of features resulting from the activity of the corresponding genotype or combination of genotypes, to be distinguished from any other group of plants by the degree of manifestation of at least one of the specified features and to be considered as a whole from the point of view of its suitability for reproduction in an unchanged form";

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

This Law applies to varieties of all genera and species of plants.

The norms of this Law regarding the determination of the suitability of a variety for distribution in Ukraine, the property right for the distribution of a variety in Ukraine do not apply to plant varieties used for decorative purposes.

### **Article <sup>3-1</sup>. Subjects of rights regarding the variety**

Subjects of rights regarding the variety are:

- 1) the author;
- 2) breeder;
- 3) other persons who acquired the right to the variety by law or deed";

#### Article 5. Rights of foreign and stateless persons

Foreign persons and persons without citizenship acquire rights to a variety and enjoy the protection of such rights in accordance with this Law on an equal basis with citizens and legal entities of Ukraine, except for cases expressly provided for by this Law, other legislative acts of Ukraine or international treaties of Ukraine";

- 2) in [the first part](#) of Article 6:

Paragraph six should be amended as follows:

"determines the procedure for maintaining the Register of applications, the Register of patents, the Register of varieties, the Register of representatives";

after the sixth paragraph, add a new paragraph with the following content:

"determines the amount and procedure for payment of fees for actions related to the enforcement of powers in the field of protection of rights to plant varieties".

In this regard, the seventh paragraph shall be considered the eighth paragraph;

- 3) [the fourth](#) and [sixth paragraphs](#) of the first part of Article 7 shall be amended as follows:

"considering the application for the variety and carrying out the qualification examination of the variety";

"observing the rights provided for by this Law";

- 4) [Articles 8](#) and [9](#) shall be amended as follows:

" **Article 8.** Powers of the central body of executive power, which ensures the formation and implementation of state policy in the field of protection of rights to plant varieties (Competent Body)

##### 1. Competent body:

ensures the formation and implementation of state policy in the field of protection of rights to plant varieties;

ensures the development of scientific and material and technical potential in the field of protection of rights to plant varieties;

coordinates the formation and implementation of international scientific and technical programs and projects in the field of protection of rights to plant varieties under joint intergovernmental, interdepartmental and other agreements;

contributes to the development of innovative activities in the field of varietal research and protection of rights to plant varieties;

provides a state order for conducting scientific and technical expertise in the field of protection of rights to plant varieties;

summarizes the practice of applying legislation on the protection of rights to plant varieties, develops proposals for its improvement;

ensures the acceptance and registration of applications for varieties, their review, qualification examination of the variety and makes decisions on state registration of rights to a variety and/or state registration of a variety or refusal of state registration of rights to a variety and/or state registration of a variety;

ensures priority setting of the application, approval of the name of the variety, verification of application information and application materials;

carries out state registration of rights to the variety and state registration of the variety;

assigns tasks to the expert institution to perform individual expert actions regarding the consideration of the application for a variety and/or conducting the qualification examination of a variety;

ensures the formation and maintenance of a database of varieties;

authorizes enterprises, institutions or organizations to exercise certain powers in the field of protection of rights to plant varieties in accordance with this Law;

issues patents for plant varieties, certificates of authorship for plant varieties, certificates of state registration of plant varieties;

ensures maintenance of the Register of applications, Register of patents, Register of varieties, Register of representatives;

organizes the verification of the preservation of varieties;

ensures the publication of official information on applications for varieties, on state registration of varieties, on state registration of rights to varieties, on issued patents for plant varieties, certificates of authorship for plant varieties, certificates on state registration of plant varieties;

ensures the release of an official publication on varieties suitable for distribution in Ukraine;

ensures the publication of official information on the issuance of a permit (license) for the use of the variety and on the state registration of the transfer (alienation) of intellectual property rights to the variety;

supervises the activities of the expert institution in terms of the fulfillment of the conditions of the authorization to exercise certain powers in the field of protection of rights to plant varieties;

carries out international cooperation in the field of legal protection of plant varieties and represents the interests of Ukraine in matters of protection of rights to plant varieties in international organizations in accordance with legislation;

organizes information and publishing activities in the field of protection of rights to plant varieties;

organizes scientific research works, approves programs of scientific research and research and development works in the field of protection of rights to plant varieties;

organizes work on training, retraining and certification of personnel (personnel) of the state system of protection of rights to plant varieties;

approves the methods and procedure for pre-registration and post-registration study of varieties;

approves the methodology for carrying out qualification examination of a variety, determines the list of genera and species of plants, the varieties of which undergo qualification

examination in expert institutions, other requirements of qualification examination, programs of research and development work in the field of protection of rights to plant varieties;

approves normative legal acts and other documents regarding consideration of applications for varieties, conducting qualification examination;

organizes and participates in international scientific events (forums, symposia, conferences, etc.), coordinates the participation of scientific institutions in the activities of foreign and international scientific societies, associations and unions on the rights of their members in the field of intellectual property of plant varieties;

exercises other powers specified by this Law.

**Article 9.** Authorization of enterprises, institutions, organizations to exercise separate powers in the field of protection of rights to plant varieties

1. The competent authority may authorize enterprises, institutions, organizations to exercise certain powers in the field of rights to plant varieties established by this Law for the Competent Authority, provided that such an enterprise, institution, organization meets the following requirements:

is a legal entity - a resident of Ukraine;

can confirm the appropriate level of competence;

has a sufficient number of appropriately qualified personnel working on a permanent basis;

is not a subject of seed production and nursery;

does not use material resources of the applicant;

has in its structure accredited laboratories necessary for the implementation of separate powers in the field of protection of rights to plant varieties;

has the status of a scientific institution;

has a quality management system, including a description of the structure and process of the qualification examination, approved by the Competent Authority;

does not have a conflict of interest regarding the object of the variety application;

exercises authority in the field of protection of rights to plant varieties at the addresses of the objects of the expert institution, its branches or separate divisions, which are specified in the decision of the Competent Authority regarding the authorization. Involvement of third parties in the performance of powers in the field of protection of rights to plant varieties is allowed in accordance with the procedure established by the Competent Authority;

has the appropriate informational, material and technical base and other infrastructure facilities necessary for the exercise of powers in the field of plant variety rights, for the exercise of which the authority is granted.

2. The procedure for confirmation by enterprises, institutions, organizations of the appropriate level of competence, requirements for a sufficient number of appropriately qualified personnel working on a permanent basis, requirements for material and financial resources, accredited laboratories and quality management systems, a list of documents necessary for obtaining authorization, and the procedure for their submission is approved by the Competent Authority.

3. In the event of a decision on the authorization of an enterprise, institution, or organization, the Competent Body issues an organizational and administrative act, which states:

the name of the legal entity authorized to perform certain powers of the Competent Body;  
term of authorization;

the list and requirements for the exercise of powers in the field of rights to plant varieties, the exercise of which is granted, and the procedure for monitoring their exercise;

the conditions under which the authorization may be terminated or revoked;

a list of the objects of the expert institution with their addresses, its branches or separate subdivisions, under which certain powers of the Competent Authority are carried out;

the procedure for coordinating the actions of the Competent Body and the expert institution.

4. Expert institutions regularly, as well as at the request of the Competent Body, report on the results of their activities in the field of protection of rights to plant varieties, the status of implementation of decisions, mandates and other normative and administrative acts of the Competent Body, including on compliance with the specified deadlines for their implementation.

The order of control, submission of reports and their list shall be established by the Competent Authority.

5. Every year, the competent body supervises the activities of the expert institution on the implementation of separate powers in the field of protection of rights to plant varieties. In the case of detection of violations as a result of control, the Competent Authority sets a deadline for their elimination. If the expert institution does not take measures to eliminate such violations within the prescribed period, the Competent Body shall revoke the authority of the expert institution.

6. The competent body publishes on its official website the organizational and administrative act on the authorization of the expert institution no later than the next day after its adoption, as well as the list of expert institutions authorized to exercise certain powers in the field of protection of rights to plant varieties.

7. Expert institutions cannot be authorized by the Competent Body to exercise powers in relation to:

making decisions on state registration of rights to a variety and/or state registration of a variety or refusal of state registration of rights to a variety and/or state registration of a variety;

issuance of security documents certifying the rights to the variety;

provision of a state order for conducting scientific and technical expertise in the field of protection of rights to plant varieties;

representation of the interests of Ukraine on issues of protection of rights to plant varieties in international organizations.

8. Expert institutions not included in the scope of management of the Competent Body cannot:

to be authorized to carry out a qualification examination of the variety for excellence, uniformity and stability;

to have access to the technical questionnaire of the variety and other confidential information";

5) [Section I](#) shall be supplemented with Article 9-1 <sup>with</sup> the following content:

Article 9-1 . Database of varieties and registers

1. The variety database and registers provided for by this Law are state property, subject to lifelong storage and maintained at the expense of the state budget for the purpose of comprehensive integration of information on varieties and rights to them.

2. The holder and administrator of the database of varieties and registers provided for by this Law is the Competent Body, which provides free and open access to their information, except for information that is confidential.

3. The electronic services of the variety database must provide the opportunity for applicants and persons who have acquired the right to a variety to access their personal electronic account and manage their profile.

4. The variety database has the status of an official publication and an official source of information on variety applications and information on their legal status.

5. The procedure for maintaining and administering the database of varieties and registers provided for by this Law shall be established by the Cabinet of Ministers of Ukraine";

6) the title of [Section II](#) and [Articles 10-13](#) should be amended as follows:

**"Chapter II  
CONDITIONS OF ACQUISITION OF VARIETY RIGHTS";**

Article 10. Rights to variety

1. According to this Law, the following rights to a variety may be acquired:

personal non-property intellectual property rights to the variety certified by state registration;

property rights of intellectual property on the variety, evidenced by the patent on the plant variety;

the property right to spread the variety, certified by state registration.

2. The rights to the variety specified in this article are acquired for the variety for which the name has been approved and which meets the conditions and criteria defined by this Law.

**Article 11.** Criteria for suitability of a variety for acquiring intellectual property rights to it

1. Varieties of a variety that can be acquired are a clone, an inbred line, a hybrid of the first generation, a population.

2. A variety is considered suitable for acquiring rights to it as an object of intellectual property, if it is new, distinctive, homogeneous and stable based on the manifestation of features generated by a certain genotype or a certain combination of genotypes.

3. A variety is considered new if, before the date on which the application for the variety is considered submitted, the applicant or another person with his permission did not sell or in any other way transfer material of the variety for commercial circulation:

a) on the territory of Ukraine - one year before this date;

b) on the territory of another state: for tree and shrub crops and grapes - six years before this date; for plants of other species - four years before this date.

4. The novelty of the variety is not lost if any of its material was sold or transferred in any other way, including before the dates specified in clauses "a" and "b" of part three of this article:

- a) with abuse to the detriment of the applicant;
- b) for the execution of the contract on the transfer of the right to apply for a variety;
- c) for the performance of a contract on the reproduction of the reproductive material of a variety or during the qualification examination for the distinction, uniformity, stability, examination of the suitability of the variety for distribution, provided that the material collected as a result was transferred only to the applicant and was not used for the production of the reproductive material of the variety;
- d) for the implementation of measures defined by legislation, in particular in the field of biological safety, or entering a variety into the Register of varieties;
- e) as a by-product or excess product obtained during the creation or improvement of a variety, or in the cases provided for in points "c" and "d" of this part without reference to the variety, only for consumption;
- e) for the purpose of demonstrating the variety at an official or officially recognized exhibition or fair.

5. Varieties of plant genera and species, the ownership of which has been limited in accordance with Clause 2 of Section IX of this Law, may be recognized as suitable for legal protection without complying with the requirements of Part Three of this Article. At the same time, the date of priority is set according to the date of receipt of the application for the variety to the Competent Body.

The term of validity of intellectual property rights to a variety is established by Article 41 of this Law.

6. A variety meets the condition of distinctiveness if, by the manifestation of its characteristics, it clearly differs from any other variety that was generally known before the date on which the application for this variety is considered to have been submitted.

The variety opposed to the declared variety is considered to be well-known if, on the date of application for this variety:

- a) the variety is granted legal protection and/or it is entered in the official register of varieties of any contracting party [to the Convention](#);
- b) an application has been submitted for the purpose of granting legal protection and/or entry into the official register of plant varieties in any contracting party to the [Convention](#), provided that a decision has been made to grant legal protection or enter the variety into the register based on the application.

7. A variety is considered homogeneous if, taking into account the characteristics of reproduction, all plants of this variety remain sufficiently similar (homogeneous) according to the main characteristics specified in the description of the variety.

8. A variety is considered stable if its main characteristics, specified in the description of the variety, remain unchanged after repeated breeding, and in the case of a special breeding cycle - at the end of each cycle.

9. The state registration of rights to a variety does not depend on additional conditions that differ from those specified in this article, if the name of the variety is approved in accordance with Article 13 of this Law and the applicant has complied with all the requirements stipulated by this Law, including the payment of the necessary fees.

**Article 12.** Conditions for state registration of a variety

1. State registration of a variety is carried out if:
  - a) the variety is excellent, uniform and stable;
  - b) approved variety name;
  - c) the variety is suitable for distribution in Ukraine.
2. State registration of a variety used as a parent component is carried out if:
  - a) the variety is excellent, uniform and stable;
  - b) approved variety name.
3. State registration of varieties registered in the member states of the European Union and/or in the United States of America (hereinafter - varieties registered in the EU and/or the USA) is carried out at the request of the applicant without conducting a qualification examination. Confirmation of registration of a variety in the EU and/or the USA is the information of the general list (catalogue) of EU varieties and/or UPOV information. The specified information is obtained by the Competent Authority independently and does not require additional confirmation by the applicant.

**Article 13. Name of the variety**

1. The name of the variety must uniquely identify it and differ from the name of any other variety existing in Ukraine and/or another contracting party to the [Convention](#), of the same or related species.

2. The name of the variety includes its generic or species designation and its proper name.

3. The proper name can be represented by any word, combination of words, combination of words and numbers, or combination of letters and numbers.

In the application for a plant variety, the applicant indicates the name of the variety in Ukrainian and its transliteration in Latin.

4. The name of the variety must not:

- a) contradict the principles of humanity and morality;
- b) consist only of numbers, unless it corresponds to the established practice of naming varieties, or consist exclusively of signs or indications that indicate the species, maturity group, quality, purpose, value, origin or cultivation technology;
- c) mislead or misrepresent the characteristics, value, geographical origin of the variety, as well as the author of the variety, breeder or other interested person;
- d) be identical or similar to the extent that it can be confused with the name of another variety, the rights to which have been acquired in Ukraine and/or another contracting party to the [Convention](#).

5. The variety must be offered in Ukraine and in other contracting parties [to the Convention](#) under the same name, unless such a name is unacceptable on the territory of Ukraine.

The variety name proposed by the applicant is published in the official publication. The competent authorities of all contracting parties [to the Convention are informed about it](#) by entering relevant information into the UPOV database.

6. Any rights associated with the approved variety name should not prevent its free use in connection with such variety, even after the expiration of the term of legal protection of this variety.

7. The competent authority approves the name of the variety proposed by the applicant based on a conclusion on its compliance with the requirements established by this Law. The applicant is sent a conclusion on the approval of the name of the variety.

8. If at the time of submitting an application for a variety, the name of the variety has not been proposed, the applicant is obliged to propose the name of the variety for approval no later than 30 days after receiving the expert opinion.

9. In the case of detection of inconsistency of the proposed name of the variety with the requirements established by this Law, the applicant is sent a conclusion with the justification of the inconsistency of the proposed name of the variety.

10. Any person may submit a reasoned objection to the proposed variety name to the Competent Authority within three months from the date of its publication in the official publication. A copy of such objection is sent to the applicant.

11. The applicant is obliged to provide a reasoned response to the conclusion with justification of the inconsistency of the proposed variety name or objection to the proposed variety name within three months from the date of receipt of the conclusion. He may rebut the conclusion or objection and leave the proposed variety name unchanged or propose another variety name for adoption. The specified term can be extended up to six months, subject to payment of the corresponding fee.

12. The other variety name proposed by the applicant is published in the official publication, and all competent authorities of the contracting parties [to the Convention are informed about it](#) by entering relevant information into the UPOV database. Approval of another variety name is carried out in the same manner as the previously proposed variety name.

13. Based on the results of consideration of the reasoned response to the conclusion or objection, the applicant and/or the person who submitted the objection shall be sent a conclusion.

14. At the request of the applicant, the name of the variety approved by the Competent Authority can be changed, provided that the request is submitted no later than 10 days after receiving the expert opinion and paying the appropriate fee.

15. The approved name of the variety is approved by the decision on state registration of the variety and/or state registration of rights to the variety. The competent authorities of all contracting parties [to the Convention are informed about the approved name of the variety](#) by publishing information about the variety in the UPOV database.

16. After approval of the name of the variety by the decision on state registration of the variety and/or state registration of rights to the variety, its change is possible if it is established that the name of the variety no longer meets the requirements defined by this article, the name of the variety has been changed in another contracting party to the Convention [or](#) based on a court decision.

The competent authority shall give the holder of the patent or the owner of the property right to propagate the variety the opportunity to propose a new name of the variety in accordance with this article, subject to payment of the appropriate fee.

17. In case of change of the name of the variety after its approval, if the name of the variety has been changed in another contracting party of [the Convention](#), the patent holder has the right to establish a ban on the use of the previous name of the variety as the name of the variety of other applicants for a period of no more than five years, subject to payment of the relevant fee,

for which he submits a petition to the Competent Authority. Information on the establishment of such a ban is published in the official publication";

7) the title of [Section III](#), [Articles 15-21](#), [23-25](#) shall be amended as follows:

**"Chapter III  
PROCEDURE FOR ACQUISITION OF VARIETY RIGHTS";**

**Article 15.** General provisions of the procedure for acquiring rights to a variety

1. Intellectual property rights to a variety are acquired in Ukraine by submitting and reviewing an application for a variety, approving the name of the variety, establishing the novelty of the variety, carrying out qualification examination of the variety and state registration of rights to the variety.

The property right to distribute a variety is acquired in Ukraine by submitting and reviewing an application for a variety, approving the name of the variety, and in the cases provided for by this Law, conducting a qualification examination of the variety and state registration of the variety.

2. The acquisition of rights to a variety in foreign countries is carried out independently of the acquisition of such rights in Ukraine.

3. On behalf of the author of the variety, the breeder, the applicant, the owner of the patent, the owner of the property right to distribute the variety, the supporter of the variety in the relations regulated by this Law, a representative (representatives) or a representative (representatives) for intellectual property matters, registered in accordance with regulations on them, approved by the Cabinet of Ministers of Ukraine. In this case, the relationship with the representative is considered to be the relationship with the author of the variety, the breeder, the applicant, the owner of the patent, the owner of the property right to distribute the variety, the supporter of the variety, respectively.

4. From the date of filing an application for a variety and until the moment of making a decision on state registration of rights to a variety and/or state registration of a variety or refusal of state registration of rights to a variety and/or state registration of a variety, the applicant has the right to transfer to another person the right to receive rights to the variety on the basis of the contract.

**Article 16.** The right of the breeder

1. The right to submit an application for a variety belongs to any person who can be considered a breeder of this variety.

2. If the variety was created by the author of the variety in connection with the performance of an employment contract (contract) or a contract on the creation of a variety to order, the right to submit an application for a variety, unless otherwise stipulated by the employment contract (contract) or contract on the creation of a variety to order, belongs to the employer (customer) as a breeder.

In such a case, sufficient confirmation of the employer's (customer's) right to submit an application for a grade is a note in the application that the grade was created in connection with the performance of an employment contract (contract) or an agreement on the creation of a grade to order.

A breeder may transfer the right to apply for a variety in accordance with law or contract.

3. If the variety was created jointly by several breeders, they have the right to submit a joint application for the variety, unless otherwise stipulated by the contract between them. Refusal of one or more breeders from exercising the right to apply for a variety does not terminate such right of other co-breeders of the variety.

4. In the case of revision of the terms of the contract regarding the composition of breeders, the Competent Body, upon a joint petition of persons specified in the application as breeders and breeders not specified in the application, makes changes to the Register of Applications in the prescribed manner, provided that the petition is received prior to the adoption of a decision on the state registration of rights to the variety and payment of the corresponding fee.

5. The right to apply for a variety may be transferred in accordance with the law or contract.

6. The applicant is responsible for the accuracy of the information provided in the application materials.

**Article 17.** The right of the author of the variety

1. Authorship rights belong to the author of the variety, which are personal non-property rights and are protected in accordance with the law.

2. If the variety was created in connection with the performance of an employment contract (contract) or an agreement on the creation of a variety to order, the author of the variety notifies the breeder (employer/customer) in writing about the variety created by him with a full description of such variety, and the breeder (employer/customer ) must enter into a written contract with the author of the variety, which provides for the amount and terms of payment of a fair copyright fee to him in accordance with the economic value of the variety and other benefits thereof, unless otherwise stipulated by the employment contract (contract) or the contract on the creation of the variety to order.

3. The author of the variety has the right to request that he is not mentioned as the author of the variety in the variety application materials. The applicant is responsible for providing information about the author of the variety in the variety application materials.

4. The application for the variety is submitted by the author alone or jointly with the employer (customer), if this is stipulated in the terms of the employment contract (contract) or the contract on the creation of a variety to order.

5. Any disputes arising between the author of the variety and the employer/customer may be resolved in court.

6. The authors of the variety, breeders and applicants who are in labor relations with the Competent Body and/or expert institution, do not have the right to participate in the review of the application for the variety and the qualification examination of the variety.

**Article 18.** Right of legal successor (heir)

1. The right to submit an application for a variety is the rightful successor (heir) of any person who can be considered the breeder of this variety, in accordance with the law or deed.

2. In the case of submitting an application for a variety by a legal successor (heir) of a breeder, documentary confirmation of legal succession (inheritance) is attached to the application.

**Article 19.** The right of the first applicant

1. If the variety was created by two or more breeders (groups of breeders) independently of each other, the rights to the variety belong to the applicant whose variety application has an

earlier filing date or, if priority is claimed, an earlier priority date, provided that such the application is not considered withdrawn, has not been withdrawn or has not been subject to a decision on the refusal to issue a plant variety patent.

2. The first applicant is considered a person entitled to submit a variety application for the purpose of acquiring variety rights in accordance with Articles 16, 17 and 18 of this Law. This norm does not apply if, before the decision on state registration of rights to a variety and/or state registration of a variety or refusal of state registration of rights to a variety and/or state registration of a variety is made, the fact of the absence of the right to acquire rights to a variety has been established by a court.

**Article 19-1.** The right of any person

1. Any person may apply for a variety and acquire the rights of a variety maintainer, if such variety is a variety in the public domain or a common variety.

2. A variety is a public domain variety if the period of validity of intellectual property rights to it has expired.

3. A variety is a common variety if there is no information on the breeder's rights regarding such a variety in the UPOV database and such a variety was freely distributed without acquiring intellectual property rights to it.

4. The criteria and procedure for assigning varieties to the public domain and common varieties shall be established by the Competent Authority.

**Article 20.** Application for variety

1. An application for a variety is submitted to the Competent Body by a person who has the right to do so in accordance with this Law.

2. An application for a variety can be submitted in paper or electronic form at the applicant's choice. The procedure for drawing up and submitting an application for a variety is approved by the Competent Authority.

3. An application for a variety is submitted in electronic form, subject to the identification of the applicant or his representative using a qualified electronic signature.

4. The variety application must relate to one variety.

5. The variety application is written in Ukrainian and must contain:

a) a statement on the recognition of rights to a variety indicating the types of rights to a variety that are acquired by application, which states:

information about the applicant:

for an individual - name and place of residence;

for a legal entity - name and location, code of the Unified State Register of Enterprises and Organizations of Ukraine (if available);

information about the breeder:

for an individual - name and place of residence;

for a legal entity - the name and certification that, as far as the applicant is aware, other persons were not involved in the breeding, invention or improvement of the variety;

information about the author/authors of the variety:

name and place of residence (if the intention to acquire personal non-property intellectual property rights to the plant variety is declared);

designation of the botanical taxon (in Ukrainian and Latin);

proposed variety name (if available);

selection code;

information about other applications for this variety known to the applicant;

information about the commercial turnover;

b) technical questionnaire of the variety, which contains:

information about the origin of the variety, including the methods and initial forms used for its creation, which are confidential information and are kept confidential by the Competent Authority and expert institution;

c) indicating the indicators for determining the suitability of the variety for distribution in Ukraine (if the application for the variety indicates the intention to acquire the property right to distribute the variety);

d) other information determined by the Competent Authority, necessary for the acquisition of rights to a variety, in particular, documents confirming that the applicant has the right to apply for a variety, except in cases where:

the applicant can be identified as a breeder on the basis of the information exchange regarding the submitted variety applications between the competent authorities of the contracting parties [to the Convention](#);

the application for the variety was submitted by the breeder in accordance with Article 16 of this Law and it states that the variety was created in connection with the performance of an employment contract (contract) or an agreement on the creation of a variety to order and the right to submit an application for the variety belongs to the breeder;

the variety application was submitted in accordance with Article 19-1 of this Law.

If, on the basis of the information exchange regarding submitted variety applications between the competent authorities of the Contracting Parties to [the Convention](#), several breeders or groups of breeders can be identified as the applicant, the Competent Body may request a document confirming the applicant's right to submit an application for a variety in Ukraine.

Information about all subjects of rights regarding the variety, who are foreigners, is indicated in the application for the variety in the Ukrainian language and letters of the Latin alphabet.

6. In accordance with the procedure established by the Competent Authority, the applicant shall provide trial samples of the variety in the quantity and quality necessary for conducting its qualification examination, and an official sample.

Test samples of parent components, which are constituent components of the variety application object, are not provided for the qualification examination of the variety.

The competent authority may request test samples of the parent components, which are constituent components of the object of the application for the variety, in cases and according to the procedure established by the Cabinet of Ministers of Ukraine.

An official sample is not provided for the acquisition of the property right for the distribution of a variety of tree, shrub, fruit and berry crops and grapes.

7. Information about the author of the variety is indicated in the variety application documents and in any publication about the variety or patent application, except in cases where:

- a) the author of the variety requests that he not be mentioned as the author in any publication about the application for the variety or patent;
- b) the author of the variety waived personal non-property intellectual property rights to the variety;
- c) the application is submitted in accordance with Article 19-1 of this Law;
- d) there is no information about the author of the variety in the event that the breeder can be identified based on the information exchange between the competent bodies of the contracting parties [to the Convention](#).

The applicant is responsible for providing information about the author of the variety.

8. A fee is paid for the submission and consideration of an application for a variety. The fee payment document is submitted to the Competent Authority together with the variety application or within two months from the date of its submission. Until the date of submission of the fee payment document, the application for the variety is not considered by the Competent Authority.

**Article 21.** Date of application for a variety

1. The date of submission of an application for a variety shall be considered the date of receipt by the Competent Authority in paper or electronic form of the application materials provided for in part five of Article 20 of this Law, or part of the materials containing at least:

- a) an application for the recognition of rights to the variety, which states: information about the applicant (in Ukrainian), designation of the botanical taxon (in Ukrainian and Latin), the name of the variety proposed by the applicant (if available) and the selection code;
- b) technical questionnaire of the variety.

2. In case of receipt of materials, on the basis of which the date of submission of an application for a variety can be established, and payment of the fee for its submission and consideration within 20 calendar days:

- a) the applicant is sent a notice of the acceptance of the application for the variety for consideration, the import of experimental samples of the variety for the purposes of the qualification examination of the variety and the official sample (indicating the number and date of submission of the application for the variety and the required number of samples);
- b) relevant information is entered in the Register of applications and published in the official publication.

3. If the Competent Body, at the time of receiving the variety application materials, has reasonable grounds to believe that they do not meet the requirements of the first part of this article, it shall notify the applicant thereof within 20 calendar days from the date of receipt of such materials.

To make changes to the application materials for a variety, a three-month period is granted from the date of receipt by the applicant of a notice from the Competent Authority about the non-compliance of the application materials with the established requirements. If during this time such discrepancy is eliminated, the date of submission of the application for the variety will be considered the date of receipt of the corrected materials by the Competent Authority. Otherwise, the application is considered withdrawn, and a notification is sent to the applicant";

**Article 23. Confidentiality of the variety application**

1. From the date of receipt of an application for a variety to the Competent Body and until the date of publication of information about the application in accordance with the third part of Article 25 of this Law, the materials of the application are confidential information and are kept confidential by the Competent Body and expert institution. Access of third parties to the variety application materials during this period is prohibited, except in cases provided by law.

2. The results of the qualification examination of the variety are considered confidential information. The competent body organizes the publication on its official website of annual data based on the results of the qualification examination of varieties in depersonalized form.

3. Information about the origin of the variety, including the methods and original forms, the confidentiality of which the applicant declared when applying for the variety, is considered confidential information and is not subject to disclosure by the Competent Authority and/or expert institution, except in cases provided for by law. Access to this information by third parties is prohibited.

4. Persons guilty of violating the requirements regarding the confidentiality of variety application materials bear the responsibility provided for by the laws of Ukraine.

**Article 24. Withdrawal of an application for a variety**

The applicant has the right to withdraw the variety application at any time before the date of receipt of the decision on the state registration of the variety.

The variety application is considered withdrawn from the date of receipt by the Competent Authority of the applicant's request for its withdrawal, information about which is entered in the Register of Applications.

Withdrawal of a variety application does not release the applicant from the obligation to pay the variety application fee.

**Article 25. Consideration of the variety application**

1. Review of the application for a variety is carried out with the aim of establishing compliance of the information specified in the application and the materials provided to it with the requirements of this Law and other normative legal acts of Ukraine.

2. Review of an application for a variety is conducted in accordance with the procedure established by this Law and the rules for review of an application for a variety approved by the Competent Authority.

Consideration of an application for a variety involves:

a) verification of conformity of the documents of the variety application with the requirements specified in Article 20 of this Law;

b) comparison of the variety application with information published in the UPOV database;

c) comparison of the variety application with the copy of the previous application provided by the applicant, if such was submitted to the competent authority of the contracting party to [the Convention](#), and establishing the priority date in accordance with Article 22 of this Law;

d) establishing the novelty of the variety in accordance with parts three and four of Article 11 of this Law;

e) establishing the fact of payment of the fee for submitting an application for a variety.

If the variety application states the intention to acquire intellectual property rights to the plant variety and the property right to distribute the variety and it is established that the novelty has been lost, the applicant is sent a conclusion on the impossibility of acquiring intellectual property rights to the plant variety for the specified reason and the possibility of continuing the qualification examination of the variety in order to acquire the property right to spread the variety. The applicant has the right to send a reasoned response to this conclusion within two months from the date of its receipt. The applicant's answer is taken into account by the Competent Authority when establishing the novelty of the variety.

3. The competent body enters the Register of applications and publishes the following information about the application for a variety in the official publication:

- a) application number and date;
- b) priority date (if priority is declared);
- c) the name of the applicant and his representative (if any);
- d) indication of the botanical taxon (in Ukrainian and Latin);
- e) variety name (if available);
- e) selection code;
- f) name (designation) of breeder (breeders);
- g) the name of the author(s) of the variety, except in the case of absence of information about the author(s) in the application materials;
- g) types of rights applied for acquisition.

After the publication of information about the variety application in the official publication, any person has the right to familiarize himself with the materials of the application, except for confidential ones, in the manner established by the Competent Authority.

4. If the variety application complies with the requirements of this Law, the applicant shall be notified within 20 calendar days from the date on which the application is considered submitted, of the positive results of the application review.

5. In case of non-compliance of the application for a variety with the requirements of this Law within 20 calendar days from the date on which the application is considered submitted, the applicant is sent a conclusion indicating the justified reasons for the non-compliance of the application and a proposal within three months from the date of receipt of such a conclusion to eliminate the specified non-compliance and/or submit a motivated response to the conclusion.

The deadline for eliminating non-conformity of the variety application and/or submitting a reasoned response to the conclusion may be extended by six months, provided the applicant pays the appropriate fee.

The period missed for valid reasons is renewed, provided that the applicant submits a petition within 12 months from the date of its expiration and pays the corresponding fee.

6. The applicant has the right to make changes, corrections and clarifications to the variety application materials. Such changes, corrections and clarifications are not taken into account if they were received by the Competent Body after the decision on state registration of rights to a variety and/or state registration of a variety or refusal of state registration of rights to a variety and/or state registration of a variety was made.

A fee shall be paid for the submission by the applicant on his own initiative of a request to correct an error or to make changes to the variety application materials, provided that the error is not obvious or technical, and the change occurred due to circumstances dependent on the applicant.

7. The competent body is obliged to inform the applicant about the results of consideration of the application for the variety and each petition of the applicant";

8) [Article 26](#) shall be deleted;

9) [Article 27](#) shall be amended as follows:

" **Article 27.** Qualification examination of a variety

1. The qualification examination of a variety has the status of a scientific and technical examination and involves conducting a complex of researches of the variety necessary for the preparation of an expert opinion. The qualification examination of a variety involves conducting research on the variety, uniformity and stability of the variety in accordance with the sixth, seventh and eighth parts of Article 11 of this Law, as well as in the cases provided for by this Law - examinations of the suitability of the variety for distribution in accordance with Articles 14 and 29 of this Law.

2. The qualification examination of the variety begins after payment of the fee for its conduct and upon availability of experimental samples of the variety and official sample at the expert institution. The amount and procedure for payment of the fee shall be established by the Cabinet of Ministers of Ukraine. Fees are paid for research that is actually conducted by an expert institution.

Regarding varieties of genera and species of plants not included in the list of genera and species of plants, the varieties of which undergo a qualification examination for the suitability of the variety for distribution in expert institutions and a qualification examination for distinction, uniformity and stability based on the information provided by the applicant, the qualification examination of the variety begins after submission by the applicant of information on the results of field studies of expertise on suitability for distribution and on compliance with the criteria of distinction, homogeneity and stability in the form established by the Competent Authority.

When submitting an application for a variety, the applicant indicates the expert institution for conducting the qualification examination of the variety. The expert institution determines the official (officials) responsible (responsible) for conducting the qualification examination (hereinafter - grade experts). Variety experts must:

- a) have special knowledge to conduct qualification examination of the variety;
- b) not to have any interest in the results of the review of the application and qualification examination of the variety (in particular, conflict of interests);
- c) carry out separate expert actions related to the performance of tasks of the Competent Body regarding consideration of the application for the variety;
- d) comply with the requirements for non-disclosure of information that is confidential and that they use in the performance of their powers.

3. When conducting a qualification examination of a variety, the expert institution conducts the necessary research independently or:

a) grants the applicant permission to carry out the necessary research under the control of such an expert institution and takes into account the results of such research as the results of the qualification examination of the variety;

b) at the request of the applicant, takes into account the results of studies provided for the qualification examination of the variety, carried out by the competent body of any other contracting party [to the Convention](#) ;

c) takes into account the data of the pre-registration variety study for one independent vegetation cycle as the results of the qualification examination of the variety, if such pre-registration variety study was carried out by an expert institution or the applicant under the control of an expert institution.

The procedure for pre-registration variety study, including the provision of test samples of the variety, is established by the Competent Authority.

If the results of research are taken into account for the purposes of qualification examination of the variety in accordance with this article, additional research is carried out only at the request of the applicant.

4. The applicant has the right to apply to the expert institution with a request to postpone the start of the qualification examination of the variety.

The expert institution informs the applicant and the Competent Authority within 15 calendar days from the date of receipt of the relevant request to postpone the start of the qualification examination of the variety.

5. After completing the qualification examination of the variety, the variety experts form, sign and submit an expert opinion for signature to the official of the expert institution in triplicate. One copy of the approved expert opinion is sent to the Competent Body for making a decision on state registration of rights to a variety and/or state registration of a variety or refusal to state registration of rights to a variety and/or state registration of a variety in the manner specified in Article 33 of this Law. The second copy of the approved expert opinion is sent to the applicant. The third copy of the approved expert opinion remains in the expert institution. Expert opinion is sent in paper or electronic form. Variety experts are personally responsible for the objectivity, reliability, completeness, validity of expert opinions, and comply with confidentiality requirements in accordance with the law.

If, based on the results of the qualification examination of the variety, it is established that the variety meets the requirements of this Law, the applicant must pay the state duty for the state registration of rights to the variety and/or the fee for the state registration of the variety within 30 days from the date of receipt of the expert opinion . In case of non-payment, the application for the variety is considered withdrawn, about which the applicant is notified.

The terms established by this article may be extended, but not for more than six months, on the condition that a corresponding petition is submitted and a fee is paid before the deadline expires, or renewed within six months after the deadline expires, on the condition that a corresponding petition is submitted and the fee is paid.

If, based on the results of the qualification examination of the variety, it is established that the variety does not comply with the requirements of this Law, the applicant and the Competent Authority shall be sent a substantiated expert opinion with a proposal to the applicant to provide a reasoned answer to it. The motivated answer is provided by the applicant to the Competent Authority within two months from the date of receipt of the expert opinion. The competent body has the right to:

a) take into account the received materials for making a decision on state registration of a variety and state registration of rights to a variety in accordance with Article 33 of this Law;

b) return the expert opinion to the expert institution for revision or request any materials of the qualification examination of the variety to make a decision on the state registration of the rights to the variety and/or the state registration of the variety or the refusal of the state registration of the rights to the variety and/or the state registration of the variety;

c) in case of detection of violations during the qualification examination of the variety, make a decision to cancel its results in whole or in part and to conduct additional research on the variety. The fee for conducting additional studies is not paid.

6. During the qualification examination of the variety, the expert institution is obliged to send the applicant and the Competent Body an annual report on the results of the qualification examination with relevant explanations in the manner determined by the Competent Body. The applicant has the right to send comments to the expert institution regarding the results obtained during the research within two months from the date of receipt of such a report.

During the qualification examination of the variety, the Competent Authority has the right to send the applicant a justified request for the provision of additional materials, information, documents, experimental samples of the variety to establish the variety's distinctiveness, homogeneity and stability, and in the cases provided for by this Law - regarding the suitability of the variety for distribution.

7. In accordance with the procedure established by the Competent Authority, the applicant may participate in the consideration of issues arising during the qualification examination of the variety. The expert institution is obliged to immediately inform the applicant about such issues and to provide reliable information about the progress of the qualification examination of the variety and the actions that are carried out during the period of its conduct";

10) delete [Article 28](#);

11) [Articles 29](#) and [30](#) shall be amended as follows:

" **Article 29.** Expertise on the suitability of a variety for distribution

1. The competent body approves the list of genera and species of plants, the varieties of which undergo examination for the suitability of the variety for distribution in expert institutions. As for varieties of genera and species of plants not included in the specified list, the decision is made on the basis of information provided by the applicant.

2. The importation into Ukraine of test samples of a variety intended for the qualification examination of a variety is carried out on the basis of a notice of acceptance of an application for a variety for consideration, importation of test samples of a variety for the purposes of qualification examination of a variety and an official sample issued by the Competent Authority.

3. Certificates certifying varietal and sowing quality of seeds or varietal and commercial qualities of planting material are not required for experimental samples of a variety for the purposes of qualification examination of the variety and official sample, which are imported into Ukraine.

The Competent Authority determines the size (volume) of test samples of the variety for the purposes of qualification examination of the variety and the official sample, which are imported into Ukraine, taking into account the size (volume) of the sample required for phytosanitary examination (analyses), determined in accordance with the legislation on plant quarantine.

For the purposes of acceptance and accounting of such samples by an expert institution, the integrity of the packaging is not considered violated if the packaging is damaged for the purpose of phytosanitary examination (analyses).

4. The competent authority enters a notice of acceptance of the application for the variety for consideration, the import of experimental samples of the variety for the purposes of qualification examination of the variety and the official sample to the unified state information web portal "One-stop shop for international trade" in the form of an electronic document certified by a qualified electronic signature, on the day of the notification.

5. The state phytosanitary inspector shall verify the presence of the notification specified in this article during the phytosanitary control of experimental samples of the variety that are imported into Ukraine for the purposes of qualification examination of the variety and official sample in accordance with the procedure approved by the Cabinet of Ministers of Ukraine.

Information regarding the presence of the notification specified in this article can be provided to the state phytosanitary inspector in paper form or using the single state information web portal "One Window for International Trade".

In the absence of the notification specified in this article, experimental samples of the variety, which are imported into Ukraine for the purposes of qualification examination of the variety, are subject to detention by the state phytosanitary inspector until such notification is provided. In the event of the impossibility of providing such notification, the state phytosanitary inspector makes a decision on the return outside the customs territory of Ukraine of experimental samples of the variety, which are imported into Ukraine for the purposes of qualification examination of the variety and the official sample.

Based on the results of the inspection of the notice specified in this article, the state phytosanitary inspector draws up an act in the form approved by the Cabinet of Ministers of Ukraine and makes a decision in accordance with the law, with information about the decision entered into the single state information web portal "One Window for International Trade".

### **Article 30. Objection by third parties**

1. Any person may submit to the Competent Body a reasoned objection to the state registration of rights to a variety and/or the state registration of a variety on the basis of its non-compliance with the requirements established by this Law within six months from the date of publication of information about the variety application in the official publication.

The competent authority sends a copy of the objection to the applicant within 10 days from the date of its receipt.

2. The applicant can inform the Competent Authority about his attitude to the objection within three months from the date of its receipt. The applicant can refute the objection, leave the variety application unchanged, make changes to it or withdraw it.

The specified term can be extended for six months, subject to payment of the corresponding fee.

The period missed for valid reasons is renewed, provided that the applicant submits a petition within 12 months from the date of his departure and pays the fee.

3. The applicant's response about leaving the variety application unchanged or making changes to it is brought to the attention of the person who filed the objection. Such a person is given a one-month period to notify the Competent Authority about whether he maintains the objection or withdraws it.

4. In the case of receipt of a notice of abandonment of objection, such objection shall be considered by the Competent Authority. The competent authority may demand from the person who filed the objection or from the applicant the information, documents, samples, etc. necessary for consideration of the objection.

5. The person who submitted the objection and the applicant shall be notified of the results of the consideration of the objection";

12) [Article 31](#) shall be deleted;

13) [Articles 33-35](#) shall be amended as follows:

**Article 33.** State registration of a variety and state registration of rights to a variety

1. If the declared variety complies with the requirements of this Law, subject to the availability of a conclusion on the approved name of the variety and payment of the appropriate fee and/or state duty, the Competent Body:

a) within 15 days from the date of receiving the expert opinion, makes a decision on state registration of the variety and/or state registration of rights to the variety; or

b) for a variety registered in the EU and/or the USA, if at the request of the applicant the qualification examination was not carried out, - within 15 days from the date of sending a notification about the positive results of the application review, a decision is made on the state registration of the variety.

In the event that the declared variety meets the requirements of this Law, but there is no conclusion on the approved name of the variety and/or payment of the corresponding fee and/or state duty, the Competent body shall make a decision on state registration of the variety and/or state registration of rights to the variety within 15 days from approval of the variety name in accordance with Article 13 of this Law and/or payment of the relevant fee and/or state duty.

2. If the declared variety does not meet the requirements of this Law, the Competent Body makes a decision to refuse the state registration of the variety and/or the state registration of rights to the variety within 15 days after the expiration of the period established for submitting a motivated response to the expert opinion in accordance with Article 27 of this of the law

Within 5 days from the date of adoption of the decision on refusal, the Competent Body notifies the applicant of such a decision by sending a notification in paper or electronic form.

3. Intellectual property rights to plant varieties are valid from the date of their state registration.

The property right to spread the variety is effective from the date of the decision on the state registration of the variety and is valid indefinitely, subject to payment of the appropriate fee.

4. State registration of intellectual property rights to a variety is carried out in accordance with the decision of the Competent Body on state registration of rights to a variety.

The state registration of the property right to spread the variety is carried out in accordance with the decision of the Competent Body on the state registration of the variety.

The information provided for by this Law shall be entered into the Register of Patents and/or the Register of Varieties within 10 calendar days from the date of adoption of the relevant decision.

**Article 34.** Publication of information entered in the registers

1. Information entered in the Register of Varieties, the Register of Patents and the Register of Applications, and the description of the variety no later than 20 days from the date of their entry, are published in the official publication.

2. The register of varieties contains a set of official information regarding the registration of the variety, in particular:

- a) designation of the botanical taxon (in Latin and Ukrainian);
- b) variety name and selection code (in Ukrainian and its Latin transliteration);
- c) name (designation) of the owner of the property right to distribute the variety and/or the supporter of the variety (in Ukrainian and English);
- d) application number and date;
- e) variety description;
- e) indicating the characteristics of the variety's suitability for distribution in Ukraine;
- f) geographical and zonal recommendations for the variety;
- g) the name and address of the place of residence (location) of the maintainer of the variety (in English and Ukrainian) (if available);
- g) date of state registration of the variety;
- h) information on termination and/or renewal of state registration of the variety.

3. The patent register contains a set of official information regarding the state registration of rights to a variety, in particular:

- a) patent number and date of state registration of rights to the variety;
- b) indication of the botanical taxon (in Latin and Ukrainian);
- c) variety name and selection code (in Ukrainian and its Latin transliteration);
- d) application number and date;
- e) priority date (if available);
- e) variety description;
- f) the name (designation) of the breeder (breeders) and the holder of the variety patent (in English and Ukrainian);
- g) the name of the author(s) of the variety with his/her consent or request;
- g) information on the granting of licenses for the use of the variety (at the request of any party to the license agreement);
- h) information on the transfer of rights to the variety;
- i) information on the validity period of the patent;
- i) the name (name) and address of the place of residence (location) of the maintainer of the variety (in English and Ukrainian) (if available);
- i) information on termination and/or renewal of rights to the variety.

4. The register of applications contains a set of official information on submitted applications for a variety in accordance with this Law, in particular:

- a) designation of the botanical taxon (in Latin and Ukrainian);

- b) variety name (if available) and selection code (in Ukrainian and its Latin transliteration);
- c) name (name) and address of the place of residence (location) of the applicant (in English and Ukrainian);
- d) the code of the Unified State Register of Enterprises and Organizations of Ukraine for the applicant legal entity (if available);
- e) name and address of the place of residence (location) of the breeder(s) (in English and Ukrainian);
- e) the name of the author(s) of the variety upon his/her consent or request;
- f) application number and date;
- f) types of rights to the variety, which are declared before acquisition by application for the variety;
- g) information on the stages of consideration of the application and passing of the qualification examination of the variety.

5. The information entered in the registers is publicly available.

6. The information entered in the registers may be changed at the initiative of the applicant, the owner of the relevant rights to the variety or the Competent Authority in accordance with the legislation.

In case of changes related to the change of the identity of the applicant, the owner of the relevant rights to the variety, the documents specified in the order approved by the Competent Authority shall be submitted.

#### **Article 35.** Issuance of documents on variety rights

1. Within 15 days from the date of state registration of the variety and/or state registration of rights to the variety, the competent body shall issue a certificate of authorship of the plant variety to the author(s) of the variety, and a patent for the plant variety and/or a certificate of state registration of the variety to the applicant .

2. If there are several authors of the variety, a certificate of authorship for the variety is issued to each author.

3. If the rights to the variety are acquired by several persons, the patent for the plant variety and/or the certificate of state registration of the variety shall be issued to the person named in the application for the variety first, unless the agreement between the applicants provides otherwise. Certified copies of the patent and/or certificate are issued to other applicants at their request, subject to payment of the appropriate fee.

4. Changes may be made to the information specified in the plant variety patent, the certificate of state registration of the variety, the certificate of authorship of the plant variety, at the request of its owner, in connection with the correction of errors.

5. Persons who have been issued a patent for a plant variety, a certificate of state registration of a variety, a certificate of authorship for a variety of genera and species of plants not included in the list of genera and species of plants, the varieties of which undergo a qualification examination for compliance of the variety with the criteria of distinction, uniformity and stability , as well as the qualification examination on the suitability of the variety for distribution, are responsible for the compliance of the variety with the criteria defined by this Law.

6. In case of loss or damage of a patent for a plant variety, a certificate of state registration of a variety, a certificate of authorship of a plant variety, a duplicate is issued to its owner, which terminates the validity of the previously issued document. A fee is paid for issuing a duplicate."

14) the title of [Section IV](#), [Articles 37](#) and [38](#) shall be amended as follows:

**"CHAPTER IV  
RIGHTS AND OBLIGATIONS RELATED TO VARIETY";**

**" Article 37.** Personal non-property intellectual property rights to a variety

1. The natural person who created the variety is recognized as the author of the variety and acquires personal non-property intellectual property rights to the plant variety from the date of state registration of rights to the variety.

2. Individuals who did not make a personal creative contribution to the creation of the variety, but only provided technical, organizational or material assistance to the author(s) of the variety during the creation of the variety and/or the application, are not recognized as the authors of the variety.

3. Personal non-property intellectual property rights to plant varieties are non-alienable, non-transferable and valid indefinitely.

4. The author of the variety has the right to receive a certificate of authorship for the plant variety at his request.

5. The author of the variety has the right to propose the name of the variety created by him and to include his name in the name.

6. The authors of the variety, which is the result of their joint creative work, have equal rights under this Law, unless otherwise provided by a written agreement between them.

7. A person recognized as the author of a variety has the right to:

- a) to protect against misappropriation or distortion of its authorship;
- b) on non-disclosure of her name as the author of the variety and failure to indicate it in publications;
- c) require the indication of one's name when using the variety, if this is practically possible.

The list of personal non-property rights of the author of the variety given in this part is not exhaustive.

8. In the event of a review of the composition of authors by joint petition of persons specified in the application for the variety as authors, as well as persons not specified in the application as authors, changes are made to the relevant documents in the established order, provided that the petition is submitted before the decision on state registration is made variety rights;

**Article 38.** The right to spread the variety in Ukraine

1. Subjects of the right to spread the variety can be:

- a) patent holder;
- b) the owner of the property right to spread the variety;
- c) maintainer of the variety.

2. The right to spread the variety includes the following actions regarding the planting material of the variety:

- a) offer for sale;
- b) reproduction;
- c) sale and/or other commercial circulation;
- d) export outside the customs territory of Ukraine or import into the customs territory of Ukraine;
- e) storage for any of the purposes specified in points "a", "b" and "c" of this part.

3. The subject of the right to spread the variety has the right to transfer such right on the basis of a deed to any person in whole or in part. The competent body can determine the procedure for transferring the right to spread the variety.

4. A variety can be distributed in Ukraine only if there is information about such a variety in the Register of varieties, unless otherwise provided by law.

The variety in respect of which the decision on state registration was adopted and published is the one entered in the Register of varieties.

In the event that the Competent Authority does not enter information about the variety into the Register of Varieties within the specified period, the applicant has the right to distribute the variety in the presence of a decision of the Competent Authority on the state registration of the variety.

Regarding the varieties of genera and species of plants not included in the list of genera and species of plants, the varieties of which undergo a qualification examination for the suitability of the variety for distribution in expert institutions, which is approved by the Competent Body, the decision on the state registration of the rights to the variety is simultaneously a decision on the state registration of the variety.

5. Distribution in Ukraine of varieties not entered in the Register of varieties is prohibited, unless otherwise established by law.

6. Varieties of vegetable crops, applications for which have been submitted to the Competent Body for the purpose of state registration of the variety, may be distributed in Ukraine until the decision on state registration of the variety is made, subject to obtaining approval issued by the Competent Body, in the manner determined by the Cabinet of Ministers of Ukraine, taking into account such requirements:

- a) approval is issued to the applicant or a person authorized by him for one year with the possibility of extension for no more than two years;
- b) the list of varieties of vegetable crops that can be distributed in Ukraine before the decision on the state registration of the variety in accordance with the issued approval is made, is subject to publication on the official website of the Competent Body;
- c) varieties of vegetable crops that are distributed are subject to mandatory area (soil) control;
- d) varieties of vegetable crops that are distributed are subject to mandatory labeling in accordance with the requirements established by the Competent Authority;
- e) on the distribution of varieties of vegetable crops in accordance with this part, a report on the practical experience of their cultivation may be submitted.

The necessity of reporting, its periodicity and the form of reporting are determined by the Competent Authority.

If a decision is made to refuse the state registration of the variety or the application for the variety is withdrawn, the approval is subject to cancellation. Information about the cancellation of approval is subject to publication on the official website of the Competent Authority, and from the moment of such publication, the planting material of the variety is prohibited from being distributed in Ukraine.

The list of botanical taxa belonging to varieties of vegetable crops is established by the Competent Authority.

7. Parental components may be distributed in Ukraine, provided that there is information about them as parental components in the Register of Patents and/or the Register of Varieties, except for cases provided for by law";

15) [Article 39-1](#) exclude;

16) [Articles 40-42](#) shall be amended as follows:

" **Article 40.** Transfer (alienation) of intellectual property rights to a variety

1. The owner of the patent has the right to transfer his intellectual property rights to the plant variety on the basis of a contract to any person who becomes his legal successor.

2. The owner of the patent has the right to bequeath his property rights to the variety.

3. The owner of the patent may issue a permit (license) for the use of the variety to any person on the basis of a license agreement. According to the license agreement, the patent owner (licensor) transfers the right to use the variety to another person (licensee), who undertakes to pay the licensor the payments specified in the agreement and to perform other actions stipulated by the license agreement.

4. During the period of validity of intellectual property rights for a plant variety, the patent holder has the right to submit to the Competent Authority for official publication, in accordance with the established procedure, a statement of readiness to grant permission to any person to use the variety (open license). In this case, the fee for maintaining the validity of the exclusive right of the patent owner is reduced by 50 percent, starting from the year following the year of publication of such statement.

If no person has declared to the owner of the patent about his intentions regarding the use of the variety and has not shown a desire to conclude a license agreement, he can submit a written request to withdraw his application. In such a case, the fee for maintaining the validity of the patent owner's exclusive right shall be paid in full, starting from the year following the year of publication of such petition.

5. A license agreement, an agreement on the transfer (alienation) of intellectual property rights to a plant variety is considered valid if it is concluded in writing and signed by the parties.

6. The transfer (alienation) of intellectual property rights to a plant variety is subject to state registration in the Register of Patents with publication of information about this in the official publication. A permit (license) for the use of a plant variety is not subject to mandatory state registration. Information on issued permits (licenses) for the use of plant varieties may be published in the official publication and entered into the Register of Patents at the initiative of the party to the license agreement. A fee shall be paid for entering the specified information into the Register of Patents at the initiative of the party to the license agreement.

7. Intellectual property rights to a plant variety belonging to a legal entity that is being liquidated may be transferred (alienated) to another legal entity in accordance with the procedure established by law.

**Article 41.** Term of validity of property rights of intellectual property on a variety of plants

1. The validity of property rights of intellectual property on a plant variety is limited to the term established by law and is maintained, subject to the payment of a fee for its maintenance.

2. The term of validity of intellectual property rights to a plant variety begins on the day following the date of state registration of the right and ends on the last day:

a) the thirtieth calendar year, counted from January 1 of the year following the year of state registration of such rights, for varieties of tree and shrub crops and grapes;

b) the twenty-fifth calendar year, counted from January 1 of the year following the year of state registration of such rights, for all other varieties.

3. After the expiration of the period of validity of intellectual property rights to a plant variety or their early termination in accordance with the second part of Article 50 of this Law, as well as in the case of renunciation of such rights in accordance with Article 51 of this Law, the corresponding variety becomes a variety of public property and can be freely can be used by any person taking into account the provisions of Article 19-1 <sup>of</sup> this Law.

4. In accordance with the procedure determined by the Competent Authority, the term of validity of intellectual property rights to plant varieties may be extended, but not for more than five years.

**Article 42.** Fee for maintaining the validity of intellectual property rights to a plant variety and maintaining the validity of the property right to spread the variety

1. The fee for maintaining the validity of the intellectual property rights to the plant variety and/or the validity of the property right to spread the variety is paid for each year, starting from the calendar year following the year of state registration of rights and/or state registration of the variety. The fee for the following year is paid during the last six months of the current calendar year. The fee for maintaining the validity of intellectual property rights to a plant variety or the validity of the property right to propagate a variety in the first calendar year following the year of state registration may also be paid during the first six months of the corresponding year.

The fee for maintaining the validity of the property right to spread the variety can be paid for five years in a row.

The fee for maintaining the validity of the property right to the distribution of a variety that is a variety of public property or a common variety is paid once, only for the first year of maintaining the validity of the property right to the distribution of the variety, following the year of state registration of the variety.

2. Rights are terminated from the first day of the year for which the fee has not been paid.

3. The fee for maintaining the validity of intellectual property rights for a plant variety can be paid within 12 months after the expiration of the established term. In this case, the fee is increased by 50 percent. After payment of the fee, the validity of the rights is restored from the next day after the information about this has been entered in the Register of Patents.

The fee for maintaining the validity of the property right to spread the variety can be paid within 24 months after the expiration of the established term. In this case, the fee is increased by 50 percent. After payment of the fee, the validity of the property right to spread the variety is restored from the next day after the information about it is entered in the Register of varieties.

4. If the established fee is not paid within the terms specified in this article, information on the termination of the intellectual property rights to the plant variety or the property right to propagate the variety is published in the official publication.

5. Payment of the fee for maintaining the validity of the property right to spread the variety is mandatory for the maintainer of the variety.

6. The amount and procedure for payment of fees shall be established by the Cabinet of Ministers of Ukraine";

17) [clause "b"](#) of Article 44 shall be deleted;

18) [Article 48](#) shall be amended as follows:

" **Article 48.** Obligations of the patent owner, the owner of the property right to spread the variety and the supporter

1. The owner of the patent and the owner of the property right to distribute the variety must use their rights in good faith.

2. The owner of the patent during the entire period of validity of the patent, and in the absence of the owner of the patent - the owner of the property right to spread the variety or the supporter ensures the preservation of the variety or its original components.

3. At the request of the Competent Authority or expert institution, the patent owner, and in the absence of the patent owner, the owner of the property right to distribute the variety or the supporter is obliged to provide information, documents, material, samples of the protected variety (including parent components of the variety - for availability), with the aim of:

- a) checking the preservation of the variety;
- b) determination and updating of the official variety sample;
- c) carrying out qualification examination of the variety;
- d) determination of compliance of the variety with the morphological features determined during its registration.

4. The competent body may oblige the owner of the patent, the owner of the property right to distribute the variety or the maintainer of the variety to keep an official sample";

19) the title of [Section V](#), [Articles 50](#) and [50-1](#) shall be amended as follows:

#### **"Chapter V**

#### **TERMINATION OF PROPERTY RIGHTS OF INTELLECTUAL PROPERTY ON PLANT VARIETIES, PROPERTY RIGHTS TO PROPAGATION OF THE VARIETY AND RECOGNITION OF THEM INVALID";**

" **Article 50.** Premature termination of intellectual property rights to plant varieties

1. The validity of intellectual property rights to a plant variety and the patent certifying this right shall be prematurely terminated in the event of the patent owner's refusal of the patent in accordance with the procedure specified in Article 51 of this Law.

2. The validity of the property rights of intellectual property on a plant variety is terminated prematurely in case of non-payment of the fee for maintaining its validity in accordance with the provisions of Article 42 of this Law.

3. The validity of intellectual property rights to plant varieties may be prematurely terminated by the Competent Authority:

a) upon the statement of any person about the loss of uniformity or stability of the variety as a result of failure to ensure its preservation by the owner of the variety and confirmation of the fact of loss in the prescribed manner;

b) in case of failure of the patent holder to provide the information, documents, materials, samples of the variety necessary to check the uniformity or stability of the variety in a timely manner at the request of the Competent Body;

c) in case of failure to submit a proposal for a new variety name at the request of the Competent Body.

4. The validity of property rights of intellectual property on a plant variety shall be terminated on the grounds specified in part three of this article, on the day following the entry of information thereof into the Register of Patents.

5. In the case of elimination of the grounds specified in clauses "b" and "c" of part three of this article, from which the property rights of intellectual property on a plant variety have been terminated, such rights are restored in the manner determined by the Competent Authority. In the case of removal of the ground specified in point "a" of part three of this article, from which intellectual property rights to a plant variety were terminated, such rights are restored, subject to confirmation of the variety's distinctiveness, homogeneity, and stability, with one independent vegetation cycle of qualification examination according to at the request of the patent owner.

The validity of the property rights of intellectual property on the plant variety and the patent certifying such rights shall be restored from the date of entry of information thereof into the Register of Patents.

6. Premature termination of intellectual property rights to a plant variety in accordance with the provisions of part three of this article may be challenged in a court of law.

**Article 50-1 . Termination of the property right to spread the variety**

1. The validity of the property right to spread the variety and the certificate of state registration of the variety certifying it shall be terminated if the owner of the property right to spread the variety refuses to maintain the variety, information about which is entered in the Register of varieties.

2. The validity of the property right to spread the variety is terminated in case of non-payment of the fee for maintaining the validity of the right, information about which is entered in the Register of varieties in accordance with the provisions of Article 42 of this Law.

3. The validity of the property right to spread the variety may be terminated by the Competent Authority:

a) in the absence of primary seeding of the variety;

b) in case of loss of homogeneity or stability of the variety as a result of failure to ensure its preservation by the patent holder or variety maintainer and confirmation of the fact of this loss as a result of verification of the preservation of the variety;

c) in case of violation by the owner of the property right to the distribution of the variety of the conditions of circulation of the seeds of the variety in accordance with the legislation.

4. The validity of the property right to the distribution of a variety is terminated for the reasons specified in this article, after the information about this has been entered in the Register of varieties.

5. After the termination of the validity of the property right to spread the variety on the basis of the second part of this article, the distribution of the seeds of the variety (except for import into the customs territory of Ukraine) is allowed until June 30 of the third year, which is counted from the date of termination, information about which is entered in the Register of varieties within two working days from the date of adoption of the decision on termination of validity.

6. In the case of elimination of the grounds indicated in clauses "a" and "c" of part three of this article, which resulted in the termination of the property right to spread the variety, such right shall be restored in the manner determined by the Competent Authority. In the case of removal of the grounds specified in point "b" of part three of this article, from which the property right to spread the variety has been terminated, such right is restored, subject to confirmation of the variety's distinctiveness, homogeneity and stability, with a one-year cycle of qualification examination at the request of the owner of the property right on the propagation of a variety or supporter.

The validity of the property right to spread the variety and the certificate of state registration of the variety certifying it shall be restored from the day following the date of entry of information about it into the Register of Varieties";

20) [Article 54](#) shall be amended as follows:

" **Article 54.** Disputes to be resolved in court

1. A person whose rights to a variety have been violated may apply to the court for the protection of his rights.

2. Disputes on any issues related to relations regulated by this Law may be resolved in court.

3. Courts, in accordance with their competence, consider disputes regarding:

- a) emergence of the right to the variety and its state registration;
- b) varieties created in connection with the performance of official duties or on behalf of the employer;
- c) authorship per variety;
- d) rewards to authors;
- e) conclusion and execution of license agreements;
- e) determination of the patent owner;
- f) recognition of the right to a variety as invalid;
- g) early termination of rights;
- g) violation of the right to a variety;
- h) recognizing the variety as suitable for distribution in Ukraine;
- i) name of the variety".

3. In [the Law of Ukraine](#) "On Seeds and Planting Material" (Vedomosti Verkhovna Rada of Ukraine, 2013, No. 42, Article 585 with the following amendments):

1) in [Article 1](#) :

in part one:

the term "seed" should be read as follows:

"seeds - plant material used for sowing, including its own seeds (seeds), fruits, co-fruits, and not intended for direct human or animal consumption";

the term "State Register of Seed and Nursery Entities" shall be amended as follows:

"State Register of Seed and Nursery Entities (hereinafter - Register of Seed and Nursery Entities) - list of seed and nursery entities";

the term "authorization" shall read as follows:

"authorization - granting to enterprises, institutions, organizations or their subdivisions, accredited by the national accreditation body of Ukraine, the right to carry out conformity assessment activities in the field of seed and nursery production, as well as granting to seed and nursery subjects who are producers and have to its structure a laboratory accredited by the national accreditation body of Ukraine, the right to determine the sowing qualities of seeds";

to be supplemented with terms of the following content:

"putting seeds and planting material into circulation - sale and any other transfer of ownership of seeds and planting material for commercial use; storage for the purpose of further sale; offer for sale or any commercial use; paid or free supply or transfer of seeds and planting material to third parties for commercial use";

"seed quality document - a certificate, certificate, act issued by the exporting country or the country of origin or the country of seed production, which contains at least information about the person who issued it, the botanical taxon, the name of the variety, the category, the batch number, the number of packaging units, mass of the lot, purity, similarity of seeds imported into the territory of Ukraine";

"a document on the quality of planting material - a certificate, certificate, act issued by the exporting country or the country of origin or the country of production of planting material, which contains at least information about the person who issued it, the botanical taxon, the name of the variety, category, the number of units of planting material, that is imported into the territory of Ukraine";

"the user's electronic account - a personalized web page or interface of an authorized user, with the help of which he has the opportunity to create, view, exchange information, documents and use other functionalities of the registers provided for by this Law";

"standard sample - planting material provided for site (soil) and/or laboratory varietal control by the patent holder, and in the absence of the patent holder - by the owner of the property right to spread the variety or by a supporter, or selected from the official sample";

"falsified seeds and/or planting material - seeds and/or planting material, in the labeling or packaging of which a trademark, other individualizing designation, external design of the packaging of another manufacturer and/or which are distributed with false information about varietal and/or seed qualities are illegally used seeds and/or planting material";

supplement with the third part of the following content:

"The terms "parental components", "State Register of Patents for Plant Varieties", "State Register of Plant Varieties Suitable for Distribution in Ukraine", "planting material" are used in the meanings given in the Law of Ukraine "On Protection of Rights to Plant Varieties";

2) [Articles 3](#), [7](#) and [8](#) shall be amended as follows:

" **Article 3.** Subjects of seed and nursery production

Subjects of seed and nursery production include:

producers - persons who produce seeds and/or planting material for its sale in accordance with this Law;

suppliers - persons who carry out one of the following types of professional activities in relation to planting material: reproduction, production, preservation and/or processing, introduction into circulation, import";

" **Article 7.** Powers of the central body of executive power, which ensures the formation and implementation of the state agrarian policy, in the field of seed production and nurseries

The powers of the central body of executive power, which ensures the formation and implementation of the state agrarian policy, in the field of seed and nursery production include:

ensuring the formation and implementation of state policy in the field of seed production and nurseries;

implementation of state management and regulation in the field of seed production and nurseries;

development and organization of implementation of state programs for the development of breeding, seed production and nurseries;

adoption of normative legal acts in accordance with this Law;

approval of documentation forms for seeds and planting material, technological and methodical requirements in the field of seed production and nurseries regarding the preservation of varietal qualities, biological and yield properties of the variety and sowing qualities of seeds;

ensuring the formation of the state reserve seed fund and control over its effective use;

ensuring the organization, training and attestation of persons to obtain a certification auditor's certificate (agronomist-inspector), issuing and canceling a certification auditor's certificate (agronomist-inspector), improving the qualifications of certification auditors (agronomist-inspectors);

ensuring the determination of varietal and sowing qualities of seeds and varietal and commercial qualities of planting material;

establishment of lists of botanical taxa by relevant groups, which are covered by this Law;

establishment of labeling and packaging requirements for relevant groups of botanical taxa (cultures);

authorization of enterprises, institutions, organizations or their subdivisions, accredited by the national accreditation body of Ukraine, to carry out conformity assessment activities in the field of seed and nursery production and seed and nursery subjects to determine the sowing qualities of seeds;

promoting the development of the seed and planting material market;

ensuring the maintenance of the Register of seed and nursery entities, the Register of certification auditors (agronomists-inspectors), the Register of conformity assessment bodies, the Register of certificates for seeds and/or planting material, as well as ensuring the openness and public accessibility of these registers;

creation of a system of zonal forest and decorative seed production and nurseries;

participation in international cooperation on issues of seed and nursery production, as well as the implementation of international agreements of Ukraine in this field;

ensuring the issuance and cancellation of relevant certificates in the field of seed production and nurseries;

exercise of other powers specified by this Law.

**Article 8.** Powers of the central body of executive power implementing state policy in the field of state supervision (control), in the field of seed production and nurseries

The powers of the central executive body implementing state policy in the field of state supervision (control) in the field of seed and nursery production include:

implementation of state control over compliance with legislative requirements in the field of seed production and nurseries;

implementation of state control over the circulation of seeds and planting material on the territory of Ukraine;

Issuance of confirmations for the import into Ukraine of samples of seeds and planting material of plant varieties not included in the Register of Plant Varieties of Ukraine, for selection, experimental work and exhibition, and for the export from Ukraine of samples of seeds and planting material of plant varieties not included in the Register of Plant Varieties of Ukraine;

appeal to the national accreditation body of Ukraine with a written, reasoned request to consider the issue of temporary suspension or cancellation of the accreditation certificate of the conformity assessment body and holding the conformity assessment body accountable for violating the requirements of the law;

an appeal to the central body of executive power, which ensures the formation and implementation of the state agrarian policy, with a written, motivated petition regarding the consideration of the issue of revoking the certificates of certification auditors (agronomists-inspectors);

participation in the development of normative legal acts in the field of seeds and planting material;

exercise of other powers specified by this Law";

3) add a new part of the following content after the first part [of Article 12-1](#) :

"The central body of the executive power, which ensures the formation and implementation of the state agrarian policy, may designate a state enterprise, institution or organization belonging to the sphere of its management as the administrator of the registers provided for in this article."

In this regard, parts two to five shall be considered parts three to six, respectively;

4) in [Article 12-2](#) :

in part one:

the second and fourth paragraphs shall be supplemented with the words "(supplied exclusively by the manufacturer)";

add the sixth paragraph with the following content:

"data on the person who granted the right to use the variety (in the case of using the variety by deed)";

exclude the sixth part;

part nine should be amended as follows:

"In the event of a change in information about a botanical taxon, the name of a variety, category (generation) and the amount (volume) of seeds, planting material included in the production program, or the number and date of issuance of the document on the basis of which the right to use the variety was acquired, the person who granted the right to use the variety, the subject of seed and nursery production is obliged to submit updated information to the central body of the executive power, which ensures the formation and implementation of the state agrarian policy";

after part ten, add a new part with the following content:

"Decisions on entry, refusal to enter, exclusion of a seed and nursery entity from the Register of seed and nursery entities are displayed in the user's electronic cabinet."

In this connection, the eleventh - thirteenth parts should be considered as the twelfth - fourteenth parts, respectively;

to exclude the thirteenth part;

5) [the seventh paragraph](#) of the fourth part of Article 12-3 <sup>shall</sup> be amended as follows:

"the position of a certification auditor (agronomist-inspector), if the auditor conducts his activities as an employee of the conformity assessment body, which is part of the management of the central executive body, which ensures the formation and implementation of the state agrarian policy";

6) [Article 15](#) shall be amended as follows:

**Article 15.** Introduction of seeds and planting material into circulation

Seeds and planting material are put into circulation by sale only after their certification.

Certificates for seeds, certificates for planting material can be issued if:

the seed and/or planting material belongs to the variety for which information is available in the Register of Plant Varieties of Ukraine;

the seeds meet the requirements of the legislation in the field of seed production and nurseries in terms of varietal or sowing qualities;

the planting material meets the requirements of the legislation in the field of seed production and nurseries in terms of varietal or commercial qualities.

Certificates for seeds of crops used as parental components can be issued if:

the seed belongs to a variety for which information is available as a parent component in the State Register of Patents for Plant Varieties or the Register of Plant Varieties of Ukraine;

the seeds meet the requirements of the legislation in the field of seed production and nurseries in terms of varietal or sowing qualities.

For certain groups of botanical taxa, the Cabinet of Ministers of Ukraine may establish specifics of certification and separate requirements for their introduction into circulation";

7) in [Article 17](#):

the first part should be written as follows:

"Determining the varietal qualities of seeds and planting material is carried out by means of field evaluation. After issuing a certificate certifying the varietal qualities of seeds, the varietal qualities determined by means of field evaluation are confirmed by field (soil) and/or laboratory varietal control in the manner established by the central executive body, which ensures the formation and implementation of the state agrarian policy";

add the first paragraph of part seven with the words "unless otherwise provided by legislation";

add the words "except for the cases provided by law" to part ten;

the eleventh part should be set out in the following version:

"Determining the sowing qualities of seeds or the commercial qualities of planting material is carried out by the conformity assessment body, and in the cases specified by law - by the subject of seed and nursery production, through the analysis of samples taken from batches of seeds and/or planting material, carried out by certification auditors (agronomists -inspectors)";

8) in [Article 18](#) :

the first part shall be supplemented with the fourth paragraph of the following content:

"seeds and planting material of a variety not entered in the State Register of Plant Varieties, suitable for distribution in Ukraine, in cases provided for by law";

parts three and six should be set out in the following wording:

"The central body of the executive power, which ensures the formation and implementation of the state agrarian policy, establishes a list of paid services provided in accordance with this Law for the conformity assessment body, which is included in the scope of its management";

"Subjects of issuing certificates attesting varietal qualities of seeds and planting material and OECD certificates are the central body of the executive power, which ensures the formation and implementation of the state agricultural policy, or the conformity assessment body that is part of its management";

9) in [Article 18-1](#) :

in part three:

Paragraphs four and seven should be amended as follows:

"has a sufficient number of appropriately qualified personnel working on a permanent basis";

"has accredited laboratories in its structure";

paragraph nine to exclude;

the eleventh paragraph should be read as follows:

"does not have a conflict of interest with regard to the seeds and/or planting material, the conformity assessment of which will be carried out";

replace the ninth part with three new parts with the following content:

"The central body of the executive power, which ensures the formation and implementation of the state agrarian policy, carries out constant monitoring of the activity of the conformity assessment body with regard to compliance with the requirements of this Law and the performance of the functions it is authorized to perform in the field of seed and nursery production, in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

If a violation of the legislation in the field of seed and nursery production is detected as a result of continuous monitoring, the conformity assessment body takes measures to eliminate it within a ten-day period, which is reported to the central executive body, which ensures the formation and implementation of the state agrarian policy.

If the conformity assessment body does not take measures to eliminate such a violation within the prescribed period, the central executive body, which ensures the formation and implementation of the state agrarian policy, cancels the decision on the authorization of the conformity assessment body."

In this connection, the tenth part should be considered as the twelfth part;

10) in [Article 18-2](#):

the seventh and twelfth parts shall be amended as follows:

"The certificate of a certification auditor (agronomist-inspector) is indefinite and is issued free of charge. Certification auditors (agronomists-inspectors) are obliged to pass a re-qualification exam at least once every four years. Failure to fulfill the requirement to pass a re-qualification exam in the period established by this Law the term is the basis for temporarily suspending the validity of the certification auditor's (agronomist-inspector's) certificate until the re-qualification exam is passed";

"A certification auditor (agronomist-inspector) can conduct his activities in cases defined by law as:

independent expert;

an official of the central body of the executive power, which ensures the formation and implementation of the state agrarian policy;

an employee of the conformity assessment body, which is part of the management of the central executive body, which ensures the formation and implementation of the state agrarian policy;

an official of the subject of seed and nursery production";

after the thirteenth part, add two new parts of the following content:

"A certification auditor (agronomist-inspector), who conducts his activities as an official of a seed and nursery entity, has the right to exclusively carry out sampling and/or participate in the marking of batches of seeds and planting material grown on land plots belonging to on the right of ownership or the right of use to such an entity of seed production or nursery, and/or seeds brought to the state of conditioned seeds at the production facilities owned by such an entity of seed production or nursery on the right of ownership or right of use.

Selective evaluation of works on sampling of seeds or planting material specified in part fourteen of this article is carried out by a certification auditor (agronomist-inspector), who is an employee of the conformity assessment body, which is part of the management of the central executive body, which ensures the formation and implements the state agrarian policy in accordance with the procedure established by such a central body of executive power".

In this connection, the fourteenth and fifteenth parts shall be considered the sixteenth and seventeenth parts, respectively;

part sixteen should be read as follows:

"The work on determining the varietal qualities of seeds and planting material (field assessment) of categories of pre-basic and basic seeds and categories of initial and basic planting material is carried out exclusively by a certification auditor (agronomist-inspector), who is an employee of the conformity assessment body, which is part of the management sphere of the central body of executive power, which ensures the formation and implementation of state agrarian policy. Work on determining the varietal qualities of other categories of seeds and planting material can be carried out by any certification auditor (agronomist-inspector), subject to the selective evaluation of such work by a certification auditor (agronomist -inspector), who is an official of the central body of executive power that ensures the formation and implementation of state agrarian policy, or an employee of the conformity assessment body that is part of the management of the central body of executive power that ensures the formation and implementation of state agrarian policy, in order , established by such a central body of executive power";

after part sixteen, add a new part with the following content:

"The act of field evaluation, issued by a certification auditor (agronomist-inspector), who conducts his activities as an independent expert, is the basis for issuing a certificate certifying the varietal qualities of seeds and/or planting material by the central executive authority, which ensures the formation and implementation state agrarian policy, or a conformity assessment body that is part of its management".

In this connection, part seventeen should be considered part eighteen;

11) to supplement Article 18-3 <sup>with</sup> the following content:

" **Article 18-3 · Determination** of sowing qualities of seeds by entities of seed production and nurseries that are producers

Subjects of seed production and nurseries, which are producers, have the right to determine the sowing qualities of seeds, subject to obtaining authorization in accordance with the procedure established by the central body of executive power, which ensures the formation and implementation of the state agrarian policy.

In the event of such authorization, the seed and nursery entity may determine the sowing qualities of seeds of varieties, the right to use of which belongs to such seed and nursery entity, and produced under the direct control of such seed and nursery entity.

Seeds are considered to have been produced under the direct control of a seed and nursery entity if a certificate certifying the varietal qualities of such seeds has been issued to such a seed and nursery entity, and provided that at least one of the following conditions is met:

the seeds were grown on land plots owned by the right of ownership or the right of use to such a seed and nursery entity;

the seeds are brought to the state of conditioned seeds at the production facilities belonging to such a seed and nursery entity under the right of ownership or the right of use.

A subject of seed production and nursery production, which is a producer, may be authorized by a decision of the central executive body, which ensures the formation and implementation of the state agrarian policy, if it:

is a legal entity - a resident of Ukraine;

can confirm the appropriate level of competence;

has an adequate number of qualified personnel working on a permanent basis, sufficient to determine the sowing qualities of the seeds;

has a certification auditor (agronomist-inspector) on his staff, who has the right to take samples and participate in the marking of seed lots;

has adequate information and technical support, financial and material resources that make it possible to determine the sowing qualities of seeds;

has in its structure a laboratory accredited by the national accreditation body of Ukraine for compliance with the requirements of DSTU ISO/IEC 17025:2017 or other standards by which they have been replaced;

has a quality management system;

has the appropriate material and technical base and other infrastructure facilities.

The procedure for confirming the appropriate level of competence, requirements for the number of qualified personnel working on a permanent basis, requirements for financial and material resources, the list of documents necessary for obtaining authorization, and the procedure for their submission are approved by the central body of executive power, which ensures the formation and implementation of the state agrarian politics

The exclusive grounds for refusal of authorization are:

non-compliance of the subject of seed and nursery production with the requirements established by this article;

detection of inaccurate information in submitted documents.

The subject of seed production, in respect of which the central executive body, which ensures the formation and implementation of the state agrarian policy, has made a decision to refuse authorization, has the right to re-submit an application for authorization after eliminating all identified deficiencies.

Batches of seeds, in respect of which the subject of seed and nursery production has determined seed qualities, are subject to selective evaluation by the conformity assessment body, which is part of the management of the central body of the executive power, which ensures the formation and implementation of the state agrarian policy, in the manner approved by such central body executive.

Selective evaluation is carried out in the amount determined by the authorization decision, which should be:

not less than 50 percent of the total volume of seed lots, for which the subject of seed and nursery production has determined the seed qualities, - in the first year of the validity of the authorization;

not less than 10 percent of the total volume of seed lots, for which seed quality determination was carried out by the subject of seed production and nursery, - in the second and subsequent years of the validity of the authorization.

The decision to cancel the authorization is made in the event of:

submission by the subject of seed and nursery production of an application for cancellation of the authorization to determine the sowing qualities of seeds;

detection of inaccurate information in submitted documents;

cancellation of the certificate of accreditation of the laboratory, which is located in the structure of the subject of seed production and nursery, by making the appropriate decision;

detection of violations of legislation in the field of seed production and nurseries;

detection of the fact of determination of sowing qualities of seeds not produced under the direct control of the subject of seed and nursery production;

finding that the discrepancy between the indicators determined by the subject of seed and nursery production and the indicators determined during the sample evaluation exceeds the permissible deviations established by the requirements of the legislation in the field of seed and nursery production, in three or more batches of seeds, in respect of which the subject of seed production and nurseries, seed qualities were determined within one calendar year.

The decision to cancel the authorization is made by the central executive body, which ensures the formation and implementation of the state agrarian policy, which informs the subject of seed and nursery production about it within ten days. Reauthorization of the subject of seed and nursery production can be carried out at least 12 months after the cancellation of the authorization based on the discovery of facts of violation of legislation in the field of seed and nursery production.

In the case of determining the sowing qualities of seeds by seed and nursery entities in accordance with this article, the issuing of certificates certifying the sowing qualities of seeds is carried out by the body for assessing conformity, which is part of the management of the central body of the executive power, which ensures the formation and implementation of the state agrarian policy. on the basis of protocols of laboratory studies to determine the sowing qualities of such seeds";

12) [Articles 20](#) and [22](#) shall be amended as follows:

**Article 20.** Import and export of seeds and planting material

Importation of seeds and planting material into the territory of Ukraine is carried out under the condition that it belongs to a variety for which information is available in the Register of Plant Varieties of Ukraine, as well as in other cases specified by this article.

Seeds of varieties that are parent components are imported into the territory of Ukraine if such seeds belong to the variety:

for which information is available as a parent component in the State Register of Patents for Plant Varieties or the Register of Plant Varieties of Ukraine;

vegetable crops, for which there is no information about the parent component in the State Register of Patents for Plant Varieties or the Register of Plant Varieties of Ukraine, but there is information, confirmed by the central body of the executive power, which ensures the formation and implementation of the state agrarian policy, that such a parent component is a constituent part a hybrid of a variety for which information is available in the Register of Plant Varieties of Ukraine, provided that the seeds are imported by the subject of seed and nursery production.

Importing into the territory of Ukraine seeds of a variety of vegetable crops, for which there is no information in the Register of Plant Varieties of Ukraine, is allowed, if there is approval for it provided for in Article 38 of the Law of Ukraine "On the Protection of Rights [to](#) Plant Varieties". In the absence of such approval, it is prohibited to import into the territory of Ukraine seeds of a variety of vegetable crops for which there is no information in the Register of Plant Varieties of Ukraine.

The importation into the territory of Ukraine of seeds and planting material of a variety not entered into the Register of Plant Varieties of Ukraine, but entered into the List of Plant Varieties of the OECD, those agricultural plants to which Ukraine has joined variety certification schemes, may be carried out for the purposes of propagation and further export outside of Ukraine in according to the procedure established by the Cabinet of Ministers of Ukraine, as well as in other cases determined by legislation.

The import of seeds and planting material is carried out in the presence of a phytosanitary certificate and:

for planting material - copies of the document on the quality of planting material;

for seeds - copies of the seed quality document or copies of the OECD certificate and the ISTA certificate.

Seeds imported into the territory of Ukraine on the basis of copies of the OECD certificate and the ISTA certificate do not require additional verification of the indicators specified in such certificates.

Seeds and planting material imported for sale on the territory of Ukraine must meet the requirements established by legislation in the field of seed and nursery production.

The importation into the territory of Ukraine of samples of seeds and planting material of plant varieties not entered in the Register of Plant Varieties of Ukraine may be carried out for selection, experimental work and display by business entities on the basis of a confirmation issued by the central body of executive power implementing state policy in the field of public supervision (control), in the field of seed production and nurseries.

The export of samples of seeds and planting material of plant varieties not entered in the Register of Plant Varieties of Ukraine outside of Ukraine may be carried out on the basis of a confirmation issued by the central executive body implementing state policy in the field of state supervision (control), in the field of seed production and nurseries.

The procedure for issuing confirmation or refusal to issue it, reissuance, cancellation of confirmation and control over the use of samples of seeds and planting material of plant varieties is established by the Cabinet of Ministers of Ukraine. Issuance of confirmations, their reissuance and cancellation are carried out free of charge.

To receive confirmation, the business entity submits a paper or electronic application to the central executive body that implements state policy in the field of state supervision (control), in the field of seed and nursery production, in a form approved by the Cabinet of Ministers of Ukraine.

Responsibility for the authenticity of the information specified in the application is borne by the business entity - the applicant.

The central body of executive power, which implements state policy in the field of state supervision (control), in the field of seed and nursery production, has the right to check the information specified in the application. In order to verify the information specified in the application, the central executive body implementing state policy in the field of state supervision (control), in the field of seed production and nursery production, has the right to request relevant information from state authorities and local self-government bodies, and also has access to data of state registers.

The central executive body implementing state policy in the field of state supervision (control), in the field of seed and nursery production, is obliged to make a decision on issuing a

confirmation or on a justified refusal to issue it no later than five working days from the day of receiving the application.

The central body of executive power implementing state policy in the field of state supervision (control), in the field of seed and nursery production, submits issued confirmations or decisions on justified refusal to issue confirmations to the single state information web portal "One Window for International Trade" in the form of electronic documents certified by an electronic digital signature, on the day of their issuance or acceptance, as well as no later than the next working day after making a decision to issue a confirmation or a justified refusal to issue it, sends (hands over) such a confirmation or a decision on a justified refusal to issue a sub to the business entity in any way that ensures the availability of evidence of such referral (handover).

The following are the exclusive grounds for a justified refusal to issue a confirmation:

exceeding the permitted quantitative limits on the volume of seed samples and planting material imported into the territory of Ukraine for selection, experimental work and exhibition;  
establishment of the fact of submission of inaccurate information in the application.

In the event that after five working days from the date of expiry of the period established by the central executive body implementing the state policy in the field of state supervision (control), in the field of seed and nursery production, to the single state information web portal "One Window for International Trade " confirmation or a decision on a justified refusal to issue it has not been submitted, the business entity has the right to import into the customs territory of Ukraine or export from the customs territory of Ukraine samples of seeds and planting material without such confirmation, provided:

submission of a copy of the application (with a description of the accepted documents) to the relevant state phytosanitary inspector with a note on the date of its acceptance by the central executive body that implements state policy in the field of state supervision (control), in the field of seed and nursery production;

carrying out and observing all other phytosanitary control procedures required by law.

The confirmation is valid from the day of its issuance until the day of the actual import into the territory of Ukraine or export from the territory of Ukraine of the agreed volume of seeds or planting material, but no more than one year.

Samples of seeds and planting material that:

are imported into the territory of Ukraine for selection, experimental work and exhibition;  
exported from the territory of Ukraine.

The volume of samples of seeds and planting material of one variety imported for selection, experimental work and exhibition during one calendar year should not exceed thirty times the volume of planting material of the variety provided for conducting one year of field research on the qualification examination of plant varieties for suitability for distribution in Ukraine.

For varieties of plants (genera and species), the decision on the suitability of which for distribution in Ukraine is made based on the applicant's data, the amount of seed samples and planting material imported for selection, experimental work and exhibition during one calendar year should not exceed thirty times the amount of planting material , submitted together with the plant variety application.

A business entity that has received confirmation, by February 1 of the year following the year in which samples of seeds and planting material for selection, experimental work and exhibition were imported into the territory of Ukraine, is obliged to notify the central executive body in paper or electronic form authorities implementing state policy in the field of state supervision (control), in the field of seed production and nurseries, about the actual volume of imported seed samples and planting material and their further use (place of cultivation, volume of the harvested crop and its use). The harvest obtained from such samples of seeds and planting material is prohibited to be used for sowing or planting, except for the cases of its use for selection and experimental works.

Control over the use of samples of seeds and planting material imported into the territory of Ukraine for selection, experimental work and exhibition, as well as over the harvest obtained from such samples, is carried out by the central body of executive power, which implements state policy in the field of state supervision (control), in the field of seed and nursery production.

Verification of the documents and information provided for in this article and their compliance with the information specified in the documents accompanying the cargo with seeds and planting material is carried out by the state phytosanitary inspector during the phytosanitary control of seeds and planting material, including with the help of a unified state information web - portal "One window for international trade", in accordance with the procedure approved by the Cabinet of Ministers of Ukraine.

During the phytosanitary control of seeds and planting material, the state phytosanitary inspector has the right to check the conformity of the information indicated on the labels with the information indicated in the documents accompanying the shipment of seeds and planting material.

Information regarding the availability of the documents provided for in this article can be provided by the business entity to the state phytosanitary inspector in paper form or using the single state information web portal "One Window for International Trade".

In the absence of the documents and information provided for in this article, or in the event of a discrepancy between the information indicated on the labels and the information indicated in the documents accompanying the cargo with seeds and planting material, such cargo is subject to detention by the state phytosanitary inspector until the necessary documents and information are provided.

If it is impossible to provide the documents and information provided for in this article, the state phytosanitary inspector makes a decision to return seeds and planting material outside the territory of Ukraine.

Based on the results of the inspection of the documents and information provided for in this article, the state phytosanitary inspector draws up an act in the form approved by the Cabinet of Ministers of Ukraine and makes a decision in accordance with the law with the entry of relevant information about the decision made to the single state information web portal "One-stop shop for international trade ";

## **Article 22. Guarantees for seeds and planting material**

The subject of seed production guarantees conformity of varietal and sowing qualities of seeds, and the subject of nursery - varietal and commercial qualities of planting material with the requirements of legislation in the field of seed production and nursery production, which is confirmed by relevant certificates. The terms of the guarantee for seeds and planting material are valid for the period specified in the certificate. In case of violation of the conditions of

guarantees by the subject of seed production and nursery, such subject bears responsibility according to the law";

13) [Article 28](#) shall be supplemented with part five of the following content:

"Intentional production and/or harvesting, and/or packaging, and/or labeling, and/or packaging, and/or offering for sale, and/or storage of falsified seeds and/or planting material for the purpose of sale -

entail the imposition of a fine on citizens from one thousand to five thousand non-taxable minimum incomes of citizens, on officials - from five thousand to ten thousand non-taxable minimum incomes of citizens, with confiscation of falsified products, equipment for the production of falsified seeds and/or planting material".

## II. Final and transitional provisions

1. This Law shall enter into force six months from the date of its publication, except for [clauses 2](#) and [3](#) of this section, which shall enter into force from the date of publication of this Law.

### [2](#). Establish that:

1) consideration of applications for varieties, the formal examination of which has not been completed before the entry into force of this Law, is carried out in accordance with the procedure established by the legislation on the protection of rights to plant varieties, which was in effect on the date of submission of the application for such variety;

2) qualification examination of applications for varieties, not completed before the entry into force of this Law, shall be conducted in accordance with the procedure established by this Law;

3) compliance of the variety with the conditions of its state registration is determined in accordance with the legislation in force on the date of submission of the application for such variety;

4) approval of the name of a variety, which is the object of an application for a variety, the examination of which has not been completed before the entry into force of this Law, is carried out in accordance with the procedure established by this Law;

5) compliance of the name of the variety with the established requirements is determined in accordance with the legislation in force on the date of submission of the application for such variety;

6) the property right of intellectual property for the distribution of a plant variety, acquired before the entry into force of this Law, shall be considered the property right for the distribution of the variety from the date of entry into force of this Law. Certificates of state registration of varieties, patents for plant varieties and certificates of authorship for plant varieties issued before the entry into force of this Law are valid after the entry into force of this Law, taking into account the peculiarities regarding the maintenance of the validity of property rights of intellectual property on the plant variety and maintenance of the validity of property rights on the distribution of the variety defined by this Law;

7) enterprises, institutions, organizations, which before the entry into force of this Law performed the functions of an expert institution, are obliged, within three months from the date of entry into force of this Law, to submit to the Competent Authority a list of the addresses of their facilities, branches and separate divisions, according to which they exercise their powers;

8) a state enterprise, institution, organization that is part of the management of the central body of executive power, which ensures the formation and implementation of the state agricultural policy, which has been authorized to carry out compliance assessment activities in the field of seed production and nursery stock before the entry into force of this Law, continues its activity as a conformity assessment body in accordance with [the Law of Ukraine "On Seeds and Planting Material"](#);

9) during the period of martial law in Ukraine and within 90 days after its termination or cancellation, the provisions of the laws of Ukraine ["On Protection of Rights to Plant Varieties"](#) and ["On Seeds and Planting Material"](#) shall apply taking into account the following features:

the importation into the customs territory of Ukraine of planting material of varieties of public property and common varieties not entered in the Register of Plant Varieties of Ukraine for planting and/or growing perennial plantations (fruit, berry, nut, grape, hop) is carried out on the basis of a notification about the ownership of the variety, which imported, to varieties of the public domain or common varieties, issued by the Competent Authority in accordance with the submitted application for the variety, phytosanitary certificate and document on the quality of planting material;

business entities that have imported the planting material specified [in the second paragraph](#) of this clause into the territory of Ukraine are obliged to keep records and submit information about its use at the request of the central executive body that implements state policy in the field of state supervision (control), in the field of seed production and nurseries, and no later than 90 days after the termination or abolition of martial law in Ukraine, complete all actions related to the acquisition of property rights for the distribution of imported varieties in accordance with the procedure established by law;

business entities that establish multi-year plantings of plants for which varieties have not completed all actions related to the acquisition of the property right to spread the variety in accordance with the procedure established by law, cannot participate in programs of state support for producers of fruits, berries, grapes and hops

[3.](#) Cabinet of Ministers of Ukraine:

1) within six months from the date of publication of this Law:

to bring its normative legal acts into compliance with this Law;

to ensure the adoption of normative legal acts resulting from this Law;

to ensure that the ministries and other central bodies of executive power bring their regulatory acts into compliance with this Law;

ensure the development and implementation of a database of plant varieties;

2) in the year following the entry into force of this Law, to inform the Verkhovna Rada of Ukraine about the state of implementation of this Law.

**President of Ukraine V. ZELENSKY, Kyiv, November 16, 2022 No. 2763-IX**