UPOV
International Union for the Protection of New Varieties of Plants

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Council

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EXAMINATION OF THE CONFORMITY OF THE DRAFT SEED ACT OF SURINAME WITH THE 1991 ACT OF THE UPOV CONVENTION

Document prepared by the Office of the Union

Disclaimer: this document does not represent UPOV policies or guidance

EXECUTIVE SUMMARY

1. By Note Verbale No. MBIS/DBZ/7.076/2026, dated and received on September 17, 2026, addressed to the Secretariat of UPOV, the Ministry of Foreign Affairs, International Business and Cooperation of Suriname requested the examination of its Draft Seed Act (hereinafter referred to as the "Draft Law"), for conformity with the 1991 Act of the UPOV Convention (hereinafter referred to as the "1991 Act"). The Note Verbale is reproduced in Annex I to this document. Annex II contains a copy of the Draft Law in English.

2. The Council is invited to:

(a) note the analysis in this document;

(b) take a positive decision on the conformity of the Draft Law with the provisions of the 1991 Act, which allows Suriname, once the Draft Law is adopted with no substantive changes and the Law is in force, to deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of Suriname of the above decision.

BACKGROUND

3. Article 34(3) of the 1991 Act provides that "[a]ny State which is not a member of the Union and any intergovernmental organization shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its Draft Laws with the provisions of this Convention. If the decision embodying the advice is positive, the instrument of accession may be deposited."

4. Since September 25, 2023, the Office of the Union has provided assistance to the Government of Suriname in the development of legislation in accordance with the 1991 Act.

BASIS FOR THE PROTECTION OF NEW PLANT VARIETIES IN SURINAME

5. In Suriname, the protection of new plant varieties in accordance with the 1991 Act will be governed by the Draft Law, once adopted. An analysis of the Draft Law follows in the order of the substantive provisions of the 1991 Act.

Article 1 of the 1991 Act: Definitions

6. Article 1(f) and (dd) of the Draft Law contains definitions of breeder and variety corresponding to the definitions in Article 1(iv) and (vi) of the 1991 Act, respectively.

Article 2 of the 1991 Act: Basic Obligation of the Contracting Parties

7. Article 3(1)(c) and 16(1) of the Draft Law contains provisions corresponding to the basic obligation provided by Article 2 of the 1991 Act.

Article 3 of the 1991 Act: Genera and Species to be Protected

8. The first sentence of Article 16(1) of the Draft Law provides as follows:

> "The breeder's right may be granted for varieties of all plant genera and species belonging to the plant kingdom, if they are novel, distinct, uniform and stable."

9. Article 16(1) of the Draft Law corresponds to the obligation under Article 3 of the 1991 Act.

Article 4 of the 1991 Act: National Treatment

10. Article 16(6) and (7) of the Draft Law contains provisions on national treatment corresponding to the provisions of Article 4 of the 1991 Act.

Articles 5 to 9 of the 1991 Act: Conditions of Protection, Novelty, Distinctness, Uniformity and Stability

11. Article 16(1) to (3) of the Draft Law contains provisions of Articles 5 to 9 of the 1991 Act.

12. Article 16(4) of the Draft Law contains provisions concerning the optional provision of Article 6(2) "Varieties of recent creation" of the 1991 Act, as follows:

> "Varieties which at the date of entry into force of this Act have not been sold or otherwise disposed of to others by or with the consent of the breeder for purposes of exploitation of the variety for more than two (2) years, shall be deemed to satisfy the condition of novelty described in paragraph 2, provided that applications for the grant of the breeder's right for these varieties have been filed within one year after the entry into force of this Act."

13. Article 16(4) of the Draft Law contains provisions corresponding to the provisions of Article 6(2) of the 1991 Act.

Article 10 of the 1991 Act: Filing of Applications

14. Article 21 of the Draft Law contains provisions on the filing of applications. The Draft Law does not seem to contain provisions which conflict with Article 10 of the 1991 Act.

Article 11 of the 1991 Act: Right of Priority

15. Article 17 of the Draft Law contains provisions on the right of priority corresponding to the provisions of Article 11 of the 1991 Act.

Article 12 of the 1991 Act: Examination of the Application

16. Articles 13(1) and 22(1) of the Draft Law contain provisions concerning the examination of the application corresponding to the provisions of Article 12 of the 1991 Act.

Article 13 of the 1991 Act: Provisional Protection

17. Article 21(5) and (6) of the Draft Law contains provisions on provisional protection corresponding to the provisions of Article 13 of the 1991 Act.

Article 14 of the 1991 Act: Scope of the Breeder's Right

18. Article 23(1) to (7) of the Draft Law contains provisions on the scope of the breeder's right corresponding to the provisions of Article 14 of the 1991 Act.

19. Article 23(3) of the Draft Law contains provisions concerning the optional provision of Article 14(3) "Acts in respect of certain products" of the 1991 Act, as follows:

> "Subject to Articles 24 and 25, the acts referred to in paragraph 1 in respect of products made directly from harvested material of the protected variety falling within the provisions of paragraph 2, through the unauthorised use of the said harvested material, shall require the authorisation of the breeder, unless the breeder has had reasonable opportunity to exercise his right in relation to the said harvested material."

20. Article 23 (7) of the Draft Law provides as follows:

> "the Council may, at the time of entering, annotate that a variety is in its opinion essentially derived from another entered variety. This annotation shall not prejudice the assessment by the court."

21. In the Explanatory Memorandum, attached to the Draft Law, under Article 23, it is provided that:

> "To establish whether a variety is an EDV, the existence of a relationship of essential derivation between varieties is a matter for the titleholder of the breeder's right in the initial variety concerned."

Article 15 of the 1991 Act: Exceptions to the Breeder's Right

22. Article 23(11)(a) to (c) of the Draft Law contains provisions concerning the compulsory exceptions to the breeder's right corresponding to the provisions of Article 15(1) of the 1991 Act.

23. Article 23(12) and (13) of the Draft Law contains provisions concerning the optional exception under Article 15(2) of the 1991 Act, as follows:

> "12. Suriname, within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder, restricts the breeder's right in relation to certain crops in order to permit farmers to use for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting, on their own holdings, the protected variety or a variety as referred to in paragraph 4(a) or (b), the so-called farmers' privilege.
>
> "13. By decision of the Minister, the crops shall be designated and further rules shall be established regarding the maximum quantity, the information to be provided by the farmer to the holder of the breeder's right and the compensation to be paid."

24. Article 23(12) and (13) of the Draft Law contain provisions which do not conflict with Article 15(2) of the 1991 Act.

Article 16 of the 1991 Act: Exhaustion of the Breeder's Right

25. Article 23(9) and (10) of the Draft Law contains provisions concerning the exhaustion of the breeder's right which correspond to the provisions of Article 16 of the 1991 Act.

Article 17 of the 1991 Act: Restrictions on the Exercise of the Breeder's Right

26. Articles 24 of the Draft Law contain provisions concerning compulsory licenses which correspond to the provisions of Article 17 of the 1991 Act.

Article 18 of the 1991 Act: Measures Regulating Commerce

27. Article 36(3) of the Draft Law contains provisions concerning measures regulating commerce which correspond to the provisions of Article 18 of the 1991 Act.

Article 19 of the 1991 Act: Duration of the Breeder's Right

28. Article 35(1) of the Draft Law contains provisions concerning the duration of the breeder's right which correspond to the provisions of Article 19 of the 1991 Act.

Article 20 of the 1991 Act: Variety Denomination

29. Articles 8 and 36(1) and (2) of the Draft Law contain provisions on variety denominations corresponding to the provisions of Article 20 of the 1991 Act.

Article 21 of the 1991 Act: Nullity of the Breeder's Right

30. Article 37 of the Draft Law contains provisions on the nullity of the breeder's right corresponding to the provisions of Article 21 of the 1991 Act.

Article 22 of the 1991 Act: Cancellation of the Breeder's Right

31. Article 35(4) to (8) of the Draft Law contains provisions on the cancellation of the breeder's right corresponding to the provisions of Article 22 of the 1991 Act.

Article 30 of the 1991 Act: Implementation of the Convention

32. In relation to the obligation to "provide for appropriate legal remedies for the effective enforcement of breeders' rights" (Article 30(1)(i) of the 1991 Act), Articles 33 and 34 of the Draft Law contain provisions on the civil remedies available for the enforcement of breeders' rights, and Article 53 of the Draft Law contains penal provisions.

33. Article 3(1)(c) of the Draft Law provides that the Council is entrusted with the task of granting the breeder's right, in accordance with the requirement in Article 30(1)(ii) of the 1991 Act.

34. Articles 8(5), 9 and 22(3) of the Draft Law correspond to the obligation to publish information concerning applications for and grant of breeders' rights, and proposed and approved denominations, as required in Article 30(1)(iii) of the 1991 Act.

General Conclusion

35. In the opinion of the Office of the Union, the Draft Law incorporates the substantive provisions of the 1991 Act. On that basis, once the Draft Law is adopted with no substantive changes and the Law is in force, Suriname would be in a position "to give effect" to the provisions of the 1991 Act, as required by its Article 30(2).

36. The Council is invited to:

(a) note the analysis in this document;

(b) take a positive decision on the conformity of the Draft Law with the provisions of the 1991 Act, which allows Suriname, once the Draft Law is adopted with no substantive changes and the Law is in force, to deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of Suriname of the above decision.

[Annexes follow]

REPUBLIC OF SURINAME

MINISTRY OF FOREIGN AFFAIRS,
INTERNATIONAL BUSINESS AND COOPERATION

No. MBIS/DBZ/7.076/2026

The Ministry of Foreign Affairs, International Business and Cooperation of the Republic of Suriname presents its compliments to the Council of the International Union for the Protection of New Varieties of Plants (UPOV) and has the honour to inform the latter that the Government of the Republic of Suriname is considering becoming a Party to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, October 23, 1978, and March 19, 1991 (the UPOV Convention).

In the context of Suriname's preparations towards accession to the UPOV Convention, the Government of the Republic of Suriname attaches particular importance to ensuring that its national legislative framework governing the protection of new varieties of plants is consistent with, and appropriately aligned to, the provisions and requirements of the Convention.

In this regard, the Ministry has the honour to request the esteemed Council of UPOV to undertake a review of the draft Seed Act of the Republic of Suriname, with a view to assessing its compatibility with the relevant provisions of the UPOV Convention and to identifying, where applicable, any areas that may warrant further consideration or legislative alignment.

The Ministry of Foreign Affairs, International Business and Cooperation of the Republic of Suriname avails itself of this opportunity to renew to the Council of the International Union for the Protection of New Varieties of Plants (UPOV) the assurances of its highest consideration.

Paramaribo, September 17, 2026

Council of the International Union for the Protection
of New Varieties of Plants (UPOV)
Geneva

MINISTRY OF FOREIGN AFFAIRS
REPUBLIC OF SURINAME

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ANNEX II / ANNEXE II / ANLAGE II / ANEXO II

[in English only / en anglais seulement / nur auf Englisch / solamente en inglés]

ACT
of _____,
establishing rules regarding the
breeder's right and the marketing of
seed of improved plant varieties

(Seed Act)

———

DRAFT

THE PRESIDENT OF THE REPUBLIC OF SURINAME,

Having considered that it is necessary to establish rules regarding the breeder's right and the marketing of seed of improved plant varieties in order to obtain greater productivity.
Having heard the Council of State, after approval by the National Assembly, has enacted the following Act:

CHAPTER 1

DEFINITIONS

Article 1

In this Act and the provisions based thereon, the following terms shall be understood to mean:

a. Minister: the Minister responsible for agricultural affairs;
b. ministry: the ministry responsible for agricultural affairs;
c. Director: the Director responsible for Agricultural Research;
d. Service: the Seed Inspection Service established pursuant to Article 6 of this Act;
e. ARS: Advertentieblad van de Republiek Suriname (Gazette of Announcements);
f. breeder: the person who has bred, or discovered and developed, a variety, as well as the employer or commissioning party of that person, or his successor in title;
g. breeder's right: an intellectual property right of the breeder for a new plant variety;
h. certification label: a label or tag designed by the Council for the sale of certified seed;
i. certified seed: seed that meets all requirements for certification and for which a certificate has been issued pursuant to this Act;
j. Council: the National Seed Council, referred to in Article 2;
k. crop: a group of plants cultivated for production in agriculture and horticulture;
l. harvested material: entire plants or parts of plants obtained through the use of propagating material of a variety;
m. ISTA: International Seed Testing Association;
n. maintainer: a natural person or legal entity who ensures that an admitted variety is maintained;
o. marketing: making available in the course of a business, or keeping in stock, displaying, selling, supplying with or without compensation to third parties;

p. packaging: a box, bottle, crate, can, barrel, jar, bag, pouch, envelope or any other object in which seeds can be properly stored;
q. placing on the market: marketing for the first time;
r. producer: a natural person or legal entity who produces certified seed and distributes it in accordance with the provisions of or pursuant to this Act;
s. propagating material: seed, plants or any other part of a plant intended for the propagation of a variety;
t. published variety: any plant variety entered in the Register of Varieties pursuant to Article 8;
u. Register of Varieties: the register of varieties, referred to in Article 8;
v. seed classes: breeder seed, basic seed, registered seed, certified-I seed and certified-II seed;
w. seed importer: the natural person or legal entity registered with the Council and holding an import permit;
x. seed inspector: the person appointed as such pursuant to Article 7(1) of this Act;
y. seed multiplication: all activities and procedures in the controlled and stepwise multiplication of seed.
z. seed: a genetic reproductive unit used as propagating material for the propagation of a plant variety, including both generatively and vegetatively propagated plant material;
aa. supplier: a natural person or legal entity who, other than for own use, professionally markets certified seed;
bb. technical examination: the examination referred to in Article 13(1);
cc. UPOV: International Union for the Protection of New Varieties of Plants;
dd. variety: a plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder's right are fully met, can be:
    i. defined by the expression of the characteristics resulting from a given genotype or combination of genotypes;
    ii. distinguished from any other plant grouping by the expression of at least one of those characteristics;
    iii. considered as a unit with regard to its suitability for being propagated unchanged;

CHAPTER 2

THE NATIONAL SEED COUNCIL

Article 2

1. By this Act, the National Seed Council is established, consisting of at least five (5) and at most nine (9) members.
2. The members shall be appointed by the Minister, after approval by the Council of Ministers, for a period of three (3) years with the possibility of reappointment.
3. The members shall be nominated as follows:
    a. one (1) member by the directorate responsible for Agricultural Research of the ministry as chairperson;
    b. one (1) member by the directorate of Agriculture of the ministry;
    c. one (1) member by the Seed Inspection Service;
    d. one (1) member by the Foundation for Rice Research;

e. one (1) member by the Centre for Agricultural Research in Suriname;
f. one (1) member by the study programme of Agricultural Production of the Anton de Kom University of Suriname;
g. one (1) member by the Bureau of Intellectual Property of the ministry responsible for economic affairs;
h. one (1) member by agriculture and horticulture-related organisations and enterprises engaged in the production of seed;
i. one (1) member as an expert with knowledge of seed-related aspects.

4. The Council shall appoint from among its members the vice-chairperson, secretary and treasurer. The chairperson, secretary and treasurer together form the Executive Committee, which represents the Council in and out of court.
5. Members may be dismissed or replaced by the Minister on grounds of unsuitability, incompetence, non-active participation or recall.
6. The member appointed to fill a vacancy arising during the term of office of another member shall step down at the time when the person in whose place he was appointed would have stepped down.
7. Members may not participate in the handling of matters in which they are personally involved or have an interest.
8. Members shall meet a profile requiring a higher professional education level of working and thinking, specific expertise particularly in breeder's rights, seed production and marketing of improved plant varieties, relevant experience and the ability to form a well-considered opinion.
9. The remuneration of the members shall be borne by the State and shall be determined by the Minister, after approval by the Council of Ministers.

Tasks

Article 3

1. The Council has the following tasks:
   a. entering of varieties in the Register of Varieties in accordance with Chapter 4 of this Act;
   b. admission of varieties in accordance with Chapter 5 of this Act;
   c. granting of the breeder's right in accordance with Chapter 6 of this Act;
   d. establishment and publication of national lists of admitted varieties as referred to in Article 9;
   e. advising on seed policy;
   f. determining and guiding the overall development and operation of the different segments of a seed programme;
   g. promoting good cooperation between organisations and enterprises involved in seed-related activities to increase efficiency in seed production;
   h. supervising compliance with procedures and other activities relevant to the issuance of certified seed;
   i. advising the Minister on:
      i. establishing the tariff for certification by the Service;
      ii. seed multiplication enterprises;

iii. seed testing laboratories;
iv. procedure for lodging an objection against actions undertaken by a seed inspector or against the results of quality control of produced seed established by the Service;
v. policy regarding the development of seed industries;
vi. implementation of this Act;

j. advising the Director in establishing guidelines originating from ISTA and UPOV regarding certification and breeder's rights;
k. supervising the implementation of other activities which are relevant or supplementary in connection with the implementation of this Act;
l. hearing stakeholders and experts.

2. The Council shall provide the Minister with important information and documents, even if these are of a confidential nature.
3. The Council shall ensure technical and organisational provisions for the security of information and documents against loss, damage, unauthorised access, alteration and disclosure to third parties.

Article 4

1. The Council shall annually prepare a report no later than 31 March on its activities, the policy pursued and the financial accountability for the past financial year. The provisions of the Act on Annual Accounts (S.B. 2017 no. 84) shall be observed.
2. The Minister shall discharge the treasurer for the financial management of the past financial year.
3. The annual report shall be sent to the ministers, organisations and institutions having representatives in the Council and shall be available to any person wishing to inspect it, and shall be placed on the website of the ministry.
4. If during the financial year significant differences arise or threaten to arise between the budgeted revenue and actual expenditure, the Council shall immediately notify the Minister thereof with a request to make financial means available.
5. The Council shall send the Minister annually no later than 1 May a draft budget for the coming financial year together with the planned activities with explanation.

Article 5

1. By decision of the Minister, the following shall be established:
   a. the working method of the Council and the division of tasks among the members;
   b. the manner of summons of applicants, witnesses, experts and other interested parties;
   c. the tariffs and manner of collection for:
      i. processing of requests for entries and annotations in the register of varieties;
      ii. processing of applications for the admission of varieties;
      iii. processing of applications for the breeder's right;
      iv. carrying out of the technical examination necessary to assess the applications referred to in sub ii and iii;
      v. provision of copies and extracts from the Register of Varieties;

vi. each year that a variety is entered in the Register of Varieties in connection with the admission or grant of the breeder's right;
vii. certification of seed;
viii. carrying out of the inspection referred to in Article 43(2);
ix. the granting of permission as referred to in Article 43(3);
x. provision of documents and marks;
xi. processing of an application for recognition and registration of suppliers as referred to in Article 44, or an application for extension, amendment or maintenance of that recognition and registration;
xii. provision of information as referred to in Article 27 and the certification of seed.

2. The tariffs referred to in paragraph 1(c) of this Article shall:
   a. have a directly demonstrable connection with the activities;
   b. be necessary to cover the costs incurred for the activities;
   c. be determined separately per crop or per category of crops to which the activities relate.
3. Documents shall be processed, and copies and extracts from the Register of Varieties shall be provided, only after the amount due has been paid.

CHAPTER 3

THE SEED INSPECTION SERVICE

Article 6

1. The Minister shall establish a service, called the Seed Inspection Service.
2. The Service is charged with seed quality control, seed certification and the technical examination referred to in Article 13(1).
3. The seed quality control shall establish whether seed meets the provisions of Chapter 8 of this Act.
4. The Service shall keep a register of seed produced by registered producers.
5. The Service shall carry out inspections and examinations for the obtaining of special quality marks, whereby an enterprise may distinguish itself from other enterprises with regard to business operations and product quality.
6. If the expertise within the Service is lacking, the Minister, having heard the Council, may approach recognised institutions or institutes locally or abroad for the provision of assistance.

Seed Inspectors

Article 7

1. The Minister shall appoint, suspend and dismiss seed inspectors, on the recommendation of the Director.
2. A seed inspector shall meet the following requirements:
   a. at least secondary education in the agricultural field;
   b. certificate of relevant training from the ministry or from other recognised institutes;
   c. at least two (2) years of work experience;
   d. of unimpeachable conduct.

3. The Director shall issue an identity card to the seed inspector, which must be shown when performing duties.
4. The tasks of a seed inspector are:
   a. taking samples of seed in accordance with the prescribed ISTA rules and procedures from any person who sells, transports, delivers or makes preparations for delivery to a buyer or consignee;
   b. sending samples for analysis to the seed laboratory or other designated laboratories;
   c. supervising compliance with this Act;
   d. assessing the suitability of an area for the cultivation of a seed crop.
5. The powers of a seed inspector are:
   a. to order in writing a person who is in possession of seed:
      i. not to dispose of the stock of seed for a period of at most thirty (30) days after inspection;
      ii. not to dispose of the stock of seed and to remove any defect in the seed and to surrender the seed for further inspection on a date to be determined by the inspector, and if the owner of the seed does not wish to remove the defect and does not surrender the seed for re-inspection, to have the choice to use the seed as food or feed, or to destroy the seed if it has been treated with harmful agricultural chemicals;
   b. to establish that an order has been carried out if the person has complied with the re-inspection, has used or destroyed the seed and has provided proof thereof in the prescribed manner. This decision shall be published in the ARS, in at least one digital media channel and electronically to interested parties;
   c. to seize the stock of a particular batch of seed if this Act has been violated;
   d. to enter buildings, with observance of Articles 113-116 of the Code of Criminal Procedure.
6. It is prohibited for the seed inspector, in the exercise of his function, to perform acts, advise or take decisions to obtain an advantage for himself or another whereby financial detriment is caused to the State, an institution or body, or financially disadvantageous conditions are agreed.

CHAPTER 4

THE REGISTER OF VARIETIES

Article 8

1. There is a Register of Varieties intended for the entering of varieties. This Register of Varieties is open to the public.
2. The following shall be entered in the Register of Varieties:
   a. varieties which have been admitted pursuant to Chapter 5 and the maintainers;
   b. varieties for which a breeder's right has been granted pursuant to Chapter 6.
3. The entry shall be made by the Council with mention of the characterising descriptions and the denomination approved by it.
4. The variety shall be designated by a denomination which will be its generic designation. The denomination must enable the variety to be identified. It may not consist solely of figures

except where this is an established practice for designating varieties. It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. It must be different from every denomination which designates, in Suriname or in the territory of a party to an international agreement for the protection of plant varieties to which Suriname is party, an existing variety of the same plant species or of a closely related species. The denomination must not be contrary to public order or morality. The denomination may not be registered if its use would be prevented by the prior right of a third party. A variety must be submitted to all members of UPOV under the same denomination. The Council shall register the denomination so submitted, unless it considers the denomination unsuitable. In the latter case, it shall require the breeder to submit another denomination.

5. Before establishing a denomination, the Council shall give notice thereof in the ARS and in at least two (2) digital media channels. Interested parties may lodge an objection with the Council against the denomination within sixty (60) days hereafter. The Council shall decide thereon within thirty (30) days and shall subsequently establish the denomination.
6. Before registering a denomination of a variety, the Council shall make enquiries with the official registers of varieties of other countries or of international organisations, as well as the Chamber of Commerce and Industry and the Bureau of Intellectual Property regarding the marks registered with them.
7. By decision of the Minister, further rules shall be established regarding the organisation of the Register of Varieties and the data required for the entering of varieties.

Article 9

1. The Council shall compile national lists of varieties of a crop admitted in Suriname on the basis of the data included in the Register of Varieties.
2. Notice of a national list shall be given in the ARS and in at least two (2) digital media channels.

Article 10

1. In applications for the admission of a variety and the grant of the breeder's right, the applicant shall propose a denomination and provide the characterising description of the variety.
2. The applicant may also provide a provisional denomination, in which case he is obliged to propose a definitive denomination within sixty (60) days.
3. The Council shall establish the proposed denomination, unless it is contrary to Article 8, in which case the applicant shall be given the opportunity to propose another denomination.
4. By decision of the Minister, further rules shall be established regarding:
   a. applications and requests;
   b. the determination of the times at which these shall be submitted to the Council;
   c. the hearing of interested parties;
   d. other matters that are necessary.

Article 11

1. If the use of a denomination for seed of the variety for which it has been entered, is prohibited by judicial decision on the ground of a right belonging to another with respect to that denomination, the Council shall cancel the entered denomination and enter, in consultation with the person having an interest in the admission of the variety or with the holder of the breeder's right, a provisional denomination. This provisional denomination shall be granted on the condition that within sixty (60) days hereafter another denomination is proposed which shall be processed in accordance with Article 8(5) and (6).
2. The Council may establish and enter a provisional characterising description which may be supplemented at the request of the applicant or ex officio, if this is necessary in connection with the entry of another variety.

Article 12

1. The decisions of the Council pursuant to Chapter 4 shall be brought to the knowledge of the following by registered letter:
   a. the interested parties referred to in Article 10;
   b. those who pursuant to Article 11 have an interest in the admission of a variety and the holders of the breeder's right.

CHAPTER 5

ADMISSION OF VARIETIES

Article 13

1. In the admission of varieties, which may differ per crop, it shall be established on the basis of a technical examination whether a variety is distinct, uniform and stable. In addition, it shall be examined whether the variety is a matter of common knowledge and possesses sufficient cultural and use value. This examination shall be carried out under the responsibility of the Council, whereby use may be made of:
   a. existing research reports with respect to that variety;
   b. the results of examinations carried out by the applicant himself;
   c. the practical experience gained in cultivation;
   d. the results of examinations carried out by a competent testing institute at the request of the Council.
2. A variety shall be deemed to be distinct if it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of filing of the application. The filing of an application for the grant of a breeder's right or for the entering of another variety in an official Register of Varieties, in any country, shall in particular be deemed to render that other variety a matter of common knowledge from the date of that application, provided that the application leads to the granting of the breeder's right or the entering of that variety in that register, as the case may be.
3. A variety shall be deemed to be uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in its relevant characteristics.

4. A variety shall be deemed to be stable if its relevant characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.
5. A variety possesses sufficient cultural and use value if, in comparison with other varieties admitted in Suriname, by the totality of its qualities, it means at least for production in a particular area, a clear improvement for cultivation, the valorisation of the harvest or the products obtained therefrom. A lower level of certain characteristics may be compensated by other favourable characteristics.
6. By decision of the Minister, further rules shall be established regarding the admission as well as the conditions under which the admission shall be revoked by the Council.

Article 14

1. The Council shall decide on an application concerning the admission of a variety, which contains:
   a. a proposal for the denomination of the variety as referred to in Article 10;
   b. a characterising description of the variety;
   c. a precise indication of the characteristics by which the variety is distinguished from other varieties of the same crop.
2. For the technical examination as referred to in Article 13(1), sufficient material of the variety to which the application relates shall be made available to the Council, in accordance with the conditions set.
3. The Council shall ensure that the authorities of the parties to an international agreement for the protection of plant varieties of which Suriname is a member, are informed of matters concerning variety denominations, in particular the filing, entering and cancellation of denominations. Each authority may address its observations on the registration of a denomination to the Council.

Article 15

1. An admitted variety shall be entered in the Register of Varieties, whereby simultaneously with the description of the variety mention shall be made of the admission, the reason and the designated maintainers.
2. The designation of maintainers as referred to in paragraph 1 shall be made by the Council. If this is necessary for breeding technical reasons, the Council shall designate one maintainer, who is obliged to provide suitable material for the production of seed to third parties who have expressed their wish thereto.
3. The admission shall bear as date and shall take effect on the day following that on which the entry and annotation in the Register of Varieties have been made.
   The admission of a variety shall lapse by operation of law as soon as six (6) months have elapsed since the fee referred to in Article 5(1)(c)(vi) became due, without payment having been made. Mention of this shall be made in the Register of Varieties.

CHAPTER 6

BREEDER'S RIGHT

Article 16

1. The breeder's right may be granted for varieties of all plant genera and species belonging to the plant kingdom, if they are novel, distinct, uniform and stable. No further or different conditions shall be attached to the grant of the breeder's right, provided that the variety is designated by a denomination in accordance with the provisions of Chapter 4, the applicant complies with the formalities referred to in this Act and the required fees have been paid. Admission pursuant to Chapter 5 is not a condition for the grant of the breeder's right.
2. A variety shall be deemed to be novel if, at the date of filing of the application for the grant of the breeder's right, no propagating or harvested material of the variety has been sold or otherwise disposed of to others by or with the consent of the breeder for purposes of exploitation of the variety during a period and as follows:
   a. in Suriname: earlier than one (1) year prior to the date of filing;
   b. outside Suriname: earlier than four (4) years or, in the case of trees and vines, earlier than six (6) years prior to the date of filing.
3. The disposal of propagating material to an authority for legal purposes or to a third party on the basis of an agreement or other legal relationship, exclusively for the purpose of production, propagation or reproduction, packaging or storage, shall not be regarded as a disposal to a third party pursuant to paragraph 2, provided that the breeder retains the exclusive right to dispose of that or other constituents of the variety and no other transfer takes place.
   If the propagating material is repeatedly used for the production of a hybrid variety, the transfer of the hybrid variety does not constitute a disposal of the said constituents of the variety as referred to in paragraph 2.
4. Varieties which at the date of entry into force of this Act have not been sold or otherwise disposed of to others by or with the consent of the breeder for purposes of exploitation of the variety for more than two (2) years, shall be deemed to satisfy the condition of novelty described in paragraph 2, provided that applications for the grant of the breeder's right for these varieties have been filed within one year after the entry into force of this Act.
5. In order to determine whether a variety satisfies the conditions referred to in paragraphs 2 to 4 of Article 13, a technical examination shall be carried out under the responsibility of the Council as determined in Article 13(1).
6. Subject to the rights referred to in this Act, nationals of a party to an international agreement for the protection of plant varieties of which Suriname is a member, as well as natural persons having their habitual residence and legal entities having their statutory seat within the territory of such a party, shall, for what concerns the grant and protection of the breeder's right within the territory of Suriname, enjoy the same treatment as is accorded or may hereafter be accorded by the legislation of Suriname to its own nationals, provided that the said nationals, natural persons or legal entities comply with the conditions and formalities imposed on the nationals of Suriname.

7. For the purposes of paragraph 6, 'nationals' means, where it concerns a State, the nationals of that State and, where it concerns an intergovernmental organisation, the nationals of the States which are members of that organisation.

Article 17

Right of Priority

1. Every breeder who has duly filed a first application for the protection of a variety with one of the members of UPOV, shall enjoy a right of priority for the filing of an application for the grant of the breeder's right for the same variety with the Council for a period of twelve months. This period shall be computed from the date of filing of the first application.
2. In order to benefit from the right of priority, the breeder shall, in the application filed with the Council, claim the priority of the first application. The breeder shall furnish, within a period of three (3) months from the filing date of the application, a copy of the documents which constitute the first application, certified to be a true copy by the authority with which that application was filed, as well as samples or other evidence that the variety which is the subject matter of both applications is the same.
3. The breeder shall be allowed a period of two years after the expiration of the period of priority or, if the first application is rejected or withdrawn, an appropriate period after such rejection or withdrawal, in which to furnish to the Council all necessary information, documents or material required for the examination of the conditions for protection. If the breeder does not furnish the required information, documents or material within the set period, the right of priority for the subsequent application shall lapse.
4. Events occurring within the period referred to in paragraph 1, such as the filing of another application or the publication or use of the variety which is the subject of the first application, shall not constitute a ground for rejection of the subsequent application. Such events shall not give rise to any third-party rights.

Article 18

1. The right to the grant of the breeder's right shall belong exclusively to the breeder, without prejudice to the provisions of Article 19.
2. If the variety has been bred, or discovered and developed, outside Suriname by a natural person who does not possess Surinamese nationality or by a legal entity without a seat in Suriname, the breeder's right shall be granted if Suriname is bound by an international agreement thereto.
3. If a variety has been bred, or discovered and developed, outside Suriname, while the obligation pursuant to an international agreement as referred to in paragraph 2 does not exist, the breeder's right may be granted for that variety insofar as it concerns a variety for which the breeder's right can be granted both in the country where the variety was bred and in Suriname.

Article 19

If the breeder has bred, or discovered and developed, a variety in the course of employment or in the course of an agreement for the performance of services for another, other than for wages, whereby the breeder performs breeding or development work with respect to the crop to which the variety belongs, the right to obtain the breeder's right shall, in deviation from the provisions of Article 18, belong to the commissioning party, employer or successor in title of the employer. The breeder shall be entitled to a reasonable compensation, unless this is already included in the wages or compensation received by him.

Article 20

1. If several persons independently of each other are entitled to obtain the breeder's right for the same new variety, the right shall belong to the person who first filed an application therefor.
2. If several persons have jointly bred, or discovered and developed, a new variety, they shall jointly be entitled to obtain the breeder's right.

Article 21

1. The application for the grant of the breeder's right shall be filed with the Council and contain the following data:
   a. a proposal for the denomination of the variety, in accordance with the conditions set in Chapter 4;
   b. the characterising description of the variety;
   c. a precise indication of the characteristics by which the variety is distinguished from other varieties of the same crop.
2. The applicant shall make available to the Council sufficient material of the variety for the examination referred to in Article 13(1), in accordance with the conditions to be set by the Council.
3. If an applicant does not have a residence, domicile or seat within the territory of Suriname, he is obliged to choose a domicile within Suriname with an authorised representative, which choice shall remain in force for the application of this Act until written notice of a change of the chosen domicile has been given to the Council.
4. Suriname shall not refuse to grant the breeder's right or limit its duration on the ground that protection for the same variety has not been applied for, has been refused or has expired in another State or intergovernmental organisation. The breeder may himself determine with which authority he files his first application, and may file an application with the Council without awaiting the grant of a breeder's right by the authority of another party.
5. Measures shall be taken to safeguard the interests of the breeder during the period between the publication of the application for the grant of the breeder's right and the grant of that right. These measures shall have the effect that the holder of the breeder's right shall at least be entitled to equitable remuneration from any person who, during the said period, has carried out acts which, once the right is granted, require the breeder's authorisation as determined in Article 23.
6. The Council may provide that the measures referred to in paragraph 5 shall only take effect in relation to persons to whom the breeder has given notice of the filing of the application.

Article 22

1. The Council shall decide on an application for the grant of the breeder's right, whereupon simultaneously with the entering of the variety in the Register of Varieties, mention shall be made of the grant of the breeder's right.
2. A breeder's right shall bear as date the date on which the entry and annotation in the Register of Varieties have been made and shall take effect the following day.
3. The Council shall publish the filing of an application for the grant of the breeder's right, as well as the grant thereof, no later than fourteen (14) days after the filing or decision in the ARS and in at least two (2) digital media channels.

Article 23

1. Subject to Articles 24 and 25, the following acts in respect of the propagating material of the protected variety shall require the authorisation of the breeder:
   a. production or reproduction (multiplication);
   b. conditioning for the purpose of propagation;
   c. offering for sale;
   d. selling or other form of marketing;
   e. exporting;
   f. importing;
   g. stocking for any of the purposes mentioned in (a) to (f).

   The breeder may make his authorisation subject to conditions and limitations.
2. Subject to Articles 24 and 25, the acts referred to in paragraph 1 in respect of the harvested material, including entire plants and parts of plants, obtained through the unauthorised use of propagating material of the protected variety shall require the authorisation of the breeder, unless the breeder has had reasonable opportunity to exercise his right in relation to the said propagating material.
3. Subject to Articles 24 and 25, the acts referred to in paragraph 1 in respect of products made directly from harvested material of the protected variety falling within the provisions of paragraph 2, through the unauthorised use of the said harvested material, shall require the authorisation of the breeder, unless the breeder has had reasonable opportunity to exercise his right in relation to the said harvested material.
4. The provisions of paragraphs 1 to 3 shall also apply in relation to:
   a. varieties which are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety;
   b. varieties which are not clearly distinguishable in accordance with Article 13(2) from the protected variety;
   c. varieties whose production requires the repeated use of the protected variety.
5. For the purposes of paragraph 4(a), a variety shall be deemed to be essentially derived from another variety ('the initial variety') when:
   a. it is predominantly derived from the initial variety, or from a variety that is itself predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;
   b. it is clearly distinguishable from the initial variety; and

c. except for the differences which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

6. Essentially derived varieties may be obtained for example by the selection of a natural or induced mutant, or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic manipulation.
7. The Council may, at the time of entering, annotate that a variety is in its opinion essentially derived from another entered variety. This annotation shall not prejudice the assessment by the court.
8. The holder of a breeder's right may authorise third parties to carry out the acts referred to in paragraphs 1 and 2.
9. The breeder's right shall not extend to acts concerning material of the protected variety or of a variety falling within the provisions of paragraph 4, which has been sold or otherwise marketed by the breeder or with his consent in the territory of Suriname, or material derived from the said material, unless such acts:
   a. involve further propagation of the variety in question; or
   b. involve an export of material of the variety which enables the propagation of the variety, into a country which does not protect varieties of the plant genus or species to which the variety belongs, except where the exported material is for final consumption.
10. For the purposes of paragraph 9, 'material' means, in relation to a variety:
    a. propagating material of any kind;
    b. harvested material, including entire plants and parts of plants; and
    c. any product made directly from the harvested material.
11. The breeder's right shall not extend to:
    a. acts done privately and for non-commercial purposes;
    b. acts done for experimental purposes;
    c. acts done for the purpose of breeding other varieties, and, subject to the application of paragraph 5, the acts referred to in paragraphs 1 to 3 in respect of such other varieties.
12. Suriname, within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder, restricts the breeder's right in relation to certain crops in order to permit farmers to use for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting, on their own holdings, the protected variety or a variety as referred to in paragraph 4(a) or (b), the so-called farmers' privilege.
13. By decision of the Minister, the crops shall be designated and further rules shall be established regarding the maximum quantity, the information to be provided by the farmer to the holder of the breeder's right and the compensation to be paid.

Article 24

The holder of a breeder's right is obliged to grant licences against equitable remuneration if:

a. the public interest so requires; and
b. a patented biotechnological invention cannot be exploited without infringing the breeder's right in question and this invention constitutes an important technological advance of economic interest with respect to the protected variety, and if a refusal to grant a licence for the exploitation of the invention would be contrary to the public interest.

Article 25

1. If the holder of a breeder's right does not fulfil his obligations as referred to in Article 24, a licence shall be granted by the Council at the request of an interested party. The parties shall be given the opportunity to reach agreement within three (3) months.
2. If the parties have not reached agreement, the Council shall decide, after having heard them regarding the acts to be carried out, and may impose on the licensee the provision of security within a certain period. The licence shall be entered in the Register of Varieties and shall also be effective against persons who, after the entry of the request as referred to in paragraph 1, have acquired rights to the breeder's right in question.

Article 26

1. The licence shall, if no specific period has been agreed, apply for the entire duration of the breeder's right and shall relate to all acts which pursuant to this Act require the authorisation of the holder of the breeder's right.
2. A licence granted other than pursuant to Articles 24 and 25 shall, at the request of the licensee, be entered in the Register of Varieties, after which it shall be valid against third parties.
3. A licence shall only be transferable if the parties have concluded an agreement thereto.

Article 27

The Service shall provide, at the request of the holder of a breeder's right with respect to the seed inspected by him, an overview of persons and enterprises which have cultivated seed of the variety for which this breeder's right has been granted, and the quantities which they have produced.

Article 28

1. The breeder's right is capable of transfer.
2. The delivery required for the transfer of the breeder's right or the right arising from an application for the grant of the breeder's right, shall be effected by a deed.
3. Any reservation with respect to the transfer shall be included in the deed, failing which the transfer shall be valid without restriction.
4. The transfer shall be effective against third parties after the deed has been entered in the Register of Varieties.
5. The parties involved in the transfer are competent to effect the entry in the Register of Varieties.

Article 29

1. If the breeder's right belongs to several persons jointly, their mutual relationship, as well as their relationship against third parties, shall be governed by what has been determined between them in the deed; however, as regards their relationship against third parties, only insofar as this appears from the Register of Varieties.
2. If no deed exists, each joint holder shall have the competence to exercise the breeder's right and to act against acts performed in violation thereof, but an authorisation as referred to in Article 23(8) may only be granted jointly.

3. Each holder is obliged, prior to the alienation of his rights to a third party, to first offer them to his joint holders at a reasonable price, failing which the sale shall not be legally valid.

Article 30

1. A pledge on the breeder's right shall be established by a deed and shall be effective against third parties after it has been entered in the Register of Varieties.
2. The pledgee is obliged to choose a domicile in Paramaribo, failing which the seat of the Council shall be deemed to be the chosen domicile.
3. The provisions in the deed by which the pledge is established, concerning licences to be granted after the entry, shall apply from the time they are annotated in the Register of Varieties, also against third parties.
4. The provisions concerning compensation for licences which at the time of the entry had already been granted, shall apply against the holder of the licence after a registered letter.
5. The deeds from which it appears that the pledge has ceased to exist or is no longer in force, shall be entered in the Register of Varieties.

Article 31

1. The attachment of a breeder's right by a creditor and the lifting thereof shall be effected in accordance with the provisions of the Code of Civil Procedure and shall be entered in the Register of Varieties.
2. The alienation, encumbrance, administration or grant of a licence, effected after the entry, cannot be invoked against the attaching creditor.
3. The licence fees not yet paid prior to the entry shall all fall under an attachment on a breeder's right, after the entered attachment has been served on the holder of the licence. The fees shall be paid to the notary or the authority before whom the execution shall take place, provided that this has been expressly communicated to the licence holder at the time of service and subject to the rights of third parties which the executing creditor must respect. This payment shall be counted towards the proceeds referred to in Article 32(3) and the provisions of the Code of Civil Procedure shall apply mutatis mutandis.
4. The entry shall be cancelled by:
   a. a declaration offered for entry in writing by the bailiff, a competent official or a lawyer, who, on behalf of the attaching creditor, lifts the attachment or if the attachment has lapsed;
   b. a judicial decision offered for entry ordering the lifting of the attachment or establishing the nullity or lapse of the attachment.

Article 32

1. The sale of a breeder's right by the pledgee shall be effected in accordance with the provisions of the Code of Civil Procedure, provided that it shall be held in public before a notary.
2. The creditor is obliged to have the sale day served on all entered execution creditors at their chosen domicile at least forty (40) days in advance.
3. The execution and the distribution of the proceeds of the breeder's right shall be effected in accordance with the provisions of the Code of Civil Procedure.

Article 33

1. The holder of a breeder's right may enforce his right against any person who, without being entitled thereto, carries out one of the acts referred to in Article 23.
2. Compensation for damages may be claimed from the person who has carried out the acts referred to in Article 23.
3. In addition to compensation for damages, it may be claimed that the person concerned also be ordered to render account and to surrender the profits obtained through the infringement.
4. The holder of the breeder's right may also institute the claim for compensation for damages and the surrender of profits on behalf of licensees and pledgees. Licensees and pledgees may only institute the claim independently if they have negotiated this competence from the holder of the breeder's right.
5. The holder of the breeder's right has the right to claim the withdrawal from circulation, destruction or rendering unusable of movable goods with which infringement of his right has been committed, as well as of materials and tools used in the production of those goods.
6. The court may, at the request of the holder of the breeder's right, determine that the person who has infringed his right, is obliged to provide him with information concerning the origin of the goods.

Article 34

1. The holder of a breeder's right may claim compensation from the person who, in the period between the application and the grant of the breeder's right, has carried out acts with respect to the variety for which the breeder's right has been applied for, as referred to in Article 23, for which acts the authorisation of the breeder is required.
2. The compensation is only due for acts carried out after the person concerned has been notified digitally, by registered letter or by bailiff's writ, of the rights belonging to the holder of the breeder's right.
3. In the aforementioned letter, a copy certified by the Council of the documents filed in respect of the application shall be enclosed, insofar as they relate to the characteristics of the variety and the indication of the characteristics by which it is distinguished from other varieties. The description of the development of the variety or of the genealogical constituents shall not be included.
4. The compensation is not due for acts carried out by a person who is entitled thereto pursuant to an agreement with the person to whom the right to obtain the breeder's right belongs in accordance with Articles 18 and 19.

Article 35

1. The breeder's right shall be granted for a term of twenty-five (25) years from the date of the grant of the breeder's right. For trees and vines, the said term shall be thirty (30) years from the said date.
2. The holder of the breeder's right may only waive it by a deed, which must be entered in the Register of Varieties.

3. The entry shall be made with the consent of persons who have acquired rights to the breeder's right or licences in that register, or who have instituted legal proceedings with respect to the breeder's right, and who have been awarded such rights.
4. The breeder's right shall be cancelled on the day of the entry of the deed by which this right is waived.
5. The breeder's right shall be cancelled by operation of law if six (6) months have elapsed since the annual fee referred to in Article 5(1)(c)(vi) became due, without payment having been made.
6. The breeder's right may be declared to have been cancelled if:
   a. it is established that the conditions of Article 13(3) and (4) regarding uniformity and stability are no longer complied with;
   b. the Council is not provided with the information, documents or material necessary for the verification of the maintenance of the variety; or
   c. the obligation is not complied with to propose another suitable denomination if the denomination of the variety has been cancelled after the grant of the right.
7. The breeder's right may not be declared to have been cancelled on grounds other than those referred to in paragraphs 4 to 6.
8. Notice of the cancelation of the breeder's right shall be given in the Register of Varieties.

Article 36

1. Any person who offers for sale or markets propagating material of a protected variety within the territory of Suriname, is obliged to use the denomination of that variety, even after the expiration of the breeder's right on that variety, except where the right of a third party prohibits such use.
2. When a variety is offered for sale or marketed, it shall be permitted to associate a trademark, trade name or other similar indication with a registered variety denomination. If such an indication is so associated, the denomination must nevertheless be easily recognisable.
3. The breeder's right shall be independent of any measure taken to regulate within its territory the production, certification and marketing of material of varieties or the importing or exporting of such material. Such measures shall in any case not affect the application of the provisions of this Act.

Article 37

1. The breeder's right shall be declared null and void by the court if it appears that:
   a. the variety was not novel at the time of the grant of the breeder's right, as referred to in Article 16(2);
   b. the variety was not distinct at the time of the grant of the breeder's right, as referred to in Article 13(2);
   c. the grant of the breeder's right was essentially based upon information and documents furnished by the breeder, and at the time of that grant the variety was not uniform or not stable, as referred to in Article 13(3) and (4); or
   d. the breeder's right has been granted to a person who is not entitled to it pursuant to this Act.

2. The nullity of the breeder's right may at any time be claimed by interested parties and the State before the court.
3. At the request of the plaintiff, an annotation of the petition shall be made in the Register of Varieties.
4. The nullity of the breeder's right shall deprive the holder thereof of all legal effects from the moment of the grant.
5. The breeder's right may not be declared null and void on grounds other than those referred to in paragraph 1.

Article 38

1. The claiming, asserting or jointly asserting of the breeder's right may be effected within five (5) years from the date of the grant by instituting proceedings in which the breeder's right may be claimed in whole or in part, if the interested party is of the opinion that it has been granted to a person who has no or not exclusive claim thereto.
2. The licences obtained shall remain valid against the new holder of the breeder's right, who asserts a claim to the compensation due for the licences.

Article 39

1. Of the request, the grant or rejection of a claim for nullity or declaration of cancellation of the breeder's right, an annotation shall be made in the Register of Varieties.
2. Of the applications, grants, revocations and rejections referred to in Chapters 4, 5 and 6, annotations shall be made in the Register of Varieties.

CHAPTER 7

MULTIPLICATION OF SEED

Article 40

A producer of seed shall ensure the multiplication of foundation seed into seed of the classes registered seed, certified-I seed or certified-II seed. Breeder seed may be multiplied by a breeding institute or a specially designated enterprise into foundation seed. These seed classes relate only to the generative multiplication of seed.

Article 41

1. Any person who wishes to produce seed of a published plant variety in accordance with Article 8, may file an application with the Council for entry as a producer of certified seed. The Council shall register the applicant as a producer or reject the application, with reasons.
2. In the assessment of an application, seed inspectors may enter the agricultural area, warehouse, storage space and other facilities which the applicant intends to use for the production of certified seed, to inspect them.
3. By decision of the Minister, the following shall be established:
   a. the conditions applicable to the registration of an applicant as a producer;
   b. the restrictions on the cultivation of the stated variety on the agricultural area;
   c. the published varieties of which seed may be produced.

4. The Council shall cancel the entry of a producer of certified seed if the interested party:
   a. fails to comply with this Act or acts in violation thereof;
   b. waives, has no title to or does not assert a claim to the agricultural area referred to in the application on which the published variety intended for certification is produced.
5. If a producer of certified seed dies, his successor in title or other entitled person may, if he intends to continue the production on the stated agricultural area, continue the activities but must file an application for entry as a producer of certified seed in accordance with this Act within six (6) months.

Article 42

1. The applicant for the seed to be certified shall provide the Council with a document, originating from the seed inspector, from which it appears:
   a. that sowing, cultivation and production have taken place as prescribed;
   b. the manner in which the inspection prior to and during the cultivation of the crop has taken place.
2. The Council shall, after the information has been assessed for accuracy, deem the seed to be certified and issue a certificate to the producer of seed, after which the Service shall enter the certification in the register of producers of seed in accordance with the model established by the ministry.
3. The producer of certified seed shall, upon sale, provide the buyer with a certified copy of the certificate, which has been co-signed by him, and attach a certification label to each package that is sealed, and if the certified seed is sold in bulk, a written declaration from the Council.
4. The certification label shall contain the following data:
   a. the crop species and the variety;
   b. the germination percentage;
   c. the physical purity;
   d. the harmful weeds;
   e. the test date;
   f. the name and domicile of the grower.

CHAPTER 8

MARKETING OF SEED

Article 43

1. The requirements for the marketing of seed are:
   a. that it must originate from a variety that has been admitted and entered in the Register of Varieties;
   b. that it must comply with the rules for the relevant categories;
   c. that it must be provided with a certification label in cases of foundation seed, registered seed, certified-I and certified-II seed;
   d. that it must comply with the conditions of certification.
2. It is prohibited to market seed of which it has not been established by inspection that it meets the set conditions with respect to quality, whereby the following are of importance:

a. variety purity, health, germination capacity, vigour, moisture content, dimensions and purity;
b. sorting, classification, care, packaging, shipment, designation and labelling;
c. technical equipment and business operations and the administration of the enterprise;
d. manner of inspection.

3. In deviation from the provisions of paragraph 1, it is permitted to market small quantities of seed:
   a. for scientific or breeding purposes;
   b. if the Council grants permission at the request of the holder of the breeder's right or maintainer for research purposes or for the maintenance of genetic diversity, insofar as it concerns a variety for which an application for admission has been filed.
4. By decision of the Minister, further rules shall be established regarding:
   a. quantities and conditions of seed for which permission is granted as referred to in paragraph 3;
   b. the procedure for quality control, reference inspection and issue of certificates for the marketing of seed;
   c. the manner of publication of variety lists;
   d. models for registration of applications as producer of certified seed and for the grant of certification;
   e. the model of the register of producers of certified seed;
   f. the model of notification and receipt for sampling and the model of the analysis memorandum and report by the analyst;
   g. the minimum quality standards of seed;
   h. requirements for the certificate;
   i. the attachment of the certification label and the label;
   j. the amount of the compensations referred to in this Act;
   k. subjects referred to in this Act.

Article 44

1. Suppliers may only market seed of published varieties, referred to in Article 8, which have been recognised by and registered with the Council. The recognition and registration are only valid for a specific period and for specific acts with respect to the seed.
2. The recognition and registration may be suspended, revoked or cancelled by the Council if the acts for which the recognition was granted or registration has taken place are no longer carried out, or if the conditions are no longer complied with, despite a written period of sixty (60) days having been given to the person concerned.
3. By decision of the Minister, further rules shall be established regarding the conditions of recognition and registration, which relate to:
   a. the filing of an application, the extension, amendment and the procedure of processing;
   b. the required information and documents;
   c. the technical equipment of the enterprise;
   d. the production process and storage;
   e. documentation with respect to the production process, storage and delivery;
   f. measures in connection with the supervision of compliance with this Act.

Article 45

1. Seed of a variety entered in the Register of Varieties pursuant to this Act shall be marketed exclusively under this denomination, without prejudice to the right to use a mark or a trade name.
2. Seed for which in other countries a different denomination is prescribed for a variety, shall only be exported under a denomination prescribed in those countries.
3. Seed of a variety entered in the Register of Varieties may be exported to other countries under the denomination customary in those countries, with mention of the denomination entered in Suriname. This denomination may not be used for other seed of the same or a related crop.

Article 46

1. The Service shall ensure that seed which does not meet the conditions set in Chapter 8, is removed from the market, stored or destroyed by the offender within eight (8) days, failing which the Service is authorized to take these measures itself at the expense of the offender.
2. The Service may recover the costs due from the offender by writ of execution, increased with the costs incurred for the collection.
3. Without prejudice to the provisions of paragraphs 1 and 2, Article 50(3) shall also apply.

Article 47

1. Any person who wishes to import seed, shall file a written request for a permit with the ministry responsible for economic affairs, whereby a certificate for the admission of varieties, originating from the Council, must also be submitted.
2. The Council shall advise the Service on the import of seed in accordance with the quality requirements as determined in Article 43(2)(a).
3. The Council shall keep a register of recognised seed importers.
4. The Council may deem imported seed to be certified if:
   a. it has been imported by a recognised seed importer;
   b. it meets the minimum certification requirements;
   c. the genus, species, variety and country of origin appear from a pro forma invoice submitted at the time of application for import;
   d. it has been designated as certified seed in the country of origin by an internationally recognised certification authority, where the conditions set by the Council are observed.
5. The Council shall issue a certificate to the recognised seed importer, after which he shall be entered in the register of recognised seed importers.
6. The seed importer shall comply with the phytosanitary requirements for plants and plant products pursuant to the Plant Protection Act 2020 (S.B. 2020 no. 78).

Article 48

By decision of the Minister:

1. exemption or dispensation shall be granted under certain conditions for the marketing of seed, as determined in Chapter 8:
   a. for the performance of research;
   b. to provide the market with sufficient seed of crops the cultivation of which is important.

2. further rules shall be established regarding:
   a. the applications and requests filed with the Council pursuant to Chapters 4 to 8;
   b. the hearing of interested parties by the Council;
   c. the implementation of decisions of CARICOM or treaties concerning the admission and marketing of seed originating from plants which do not meet the conditions of Article 14.

Seed Fund

Article 49

1. By this Act, the Seed Fund for the breeder's right and the marketing of seed of improved plant varieties is established.
2. The resources of the Fund consist of:
   a. the initial capital of SRD 2,000,000, to be borne by the budget of the ministry;
   b. contributions from breeders, producers of agricultural and horticultural crops;
   c. donations from national, regional and international organisations and other resources which are surrendered or to which the Fund is entitled on the basis of this Act or other Acts;
   d. all other lawful resources.
3. The Fund is a legal entity and is established in Paramaribo, but may also have its office elsewhere within Suriname.
4. The resources and revenues of the Fund are exclusively intended for the realisation of the stated objectives, research, the support of local research laboratories and quality control.
5. The Minister responsible for Finance may at any time appoint an independent expert to control the revenues and expenditures of the Fund.
6. Within four (4) months after the end of the calendar year, both Ministers shall receive the financial report on projects financed by the Fund and the revenues and expenditures of the Fund.
7. The board of the Fund consists of at least three (3) and at most five (5) members and is composed as follows:
   a. two (2) members shall be designated by the Minister, including the chairperson;
   b. one (1) member shall be designated by the Minister responsible for financial affairs;
   c. one (1) member shall be designated jointly by the producers of agricultural and horticultural crops;
   d. one (1) member shall be designated by the business community jointly.
8. By decision of the Minister, in agreement with the Minister responsible for financial affairs, further rules shall be established regarding the contributions of agricultural and horticultural producers, the management of the Fund, the finances, governance and administrative affairs.

CHAPTER 9

OTHER PROVISIONS

Administrative Enforcement

Article 50

1. The Minister is authorised to apply administrative enforcement for the maintenance of Article 46(1) of this Act.
2. No collection shall take place until after the offender has been summoned in writing to comply with his obligation pursuant to Article 46(1) within a period of at least fourteen (14) days, failing which the amount due may be collected by writ of execution.
3. The writ of execution shall be served on the offender by bailiff's writ at the expense of the offender and constitutes an enforceable title which shall be executed with application of the Second Book of the Code of Civil Procedure.
4. Opposition by the offender against the execution of a writ of execution shall be instituted by bringing an action against the State, namely the Ministry.
5. The opposition shall not suspend the commencement or continuation of the execution, subject to the decision of the court.

Objection and Appeal

Article 51

1. A decision of the Council contains the grounds on which it is based and the possibility to lodge an objection thereto, and shall be brought to the knowledge of the applicant or his successors in title by registered letter.
2. An objection may be lodged against a decision of the Council within sixty (60) days.
3. If the decision of the Council remains unchanged after the filing of the objection, the interested party may appeal in writing to the Minister within fifteen (15) days hereafter.
4. The Minister shall decide within fifteen (15) days after receipt of the appeal. The interested party has the possibility, in the event of failure to decide, to request the Minister to comply within eight (8) days.
5. The Minister shall annul the decision of the Council if it appears that action has been taken in violation of this Act or the public interest, of which notice shall be given in the ARS, in at least two (2) digital media channels and electronically to interested parties. The decision shall be sent electronically to the interested party.
6. The decisions referred to in Chapters 4, 5 and 6 against which appeal is open, shall take effect as soon as a decision has been taken on the appeal lodged or if waiver has been made thereof by written notice to the Council or if the appeal period has expired without appeal having been lodged.
7. The appeal shall have no suspensive effect.

Duty of Confidentiality

Article 52

It is prohibited for the person who, by virtue of his duties under or pursuant to this Act, has been provided with information, to use the provided information otherwise than for which it is intended, unless it concerns information which must be made public.

Penal Provisions

Article 53

1. Any person who acts in violation of the provisions of Article 7(5)(a) shall be punished with imprisonment of at most four (4) years and a fine of the fourth category.
2. Persons who infringe the provisions of Articles 23(1), 33(1), 43, 44 and 47(1) shall be punished with a fine of the second category, or detention of at most two months.
3. In the event of violation of the prohibitions, prescriptions and obligations referred to in Articles 23(8) and 43(2), a fine of the third category, or detention of at most one year, shall apply.
4. Any person who acts in violation of the provisions of Article 52 shall be punished with imprisonment of at most one year and a fine of the third category, or with one of these penalties.
5. The facts punishable under paragraphs 1, 2 and 4 are crimes and the facts punishable under paragraph 3 are offences.

Transitional Provision

Article 54

Upon the entry into force of this Act, the Act of 4 May 2005, establishing rules for the production, quality, certification and sale of seed (S.B. 2005, no. 51) and the Seed Regulations Decree (S.B. 2008, no. 149) shall lapse.

Article 55

1. This Act may be cited as: 'Seed Act'.
2. It shall be proclaimed in the Official Gazette of the Republic of Suriname.
3. It shall enter into force on the day following that of its proclamation.
4. The Minister responsible for agricultural affairs is charged with the implementation of this Act.

Given at Paramaribo, the _____

JENNIFER SIMONS

ACT
of _____,
establishing rules regarding the
breeder's right and the marketing of
seed of improved plant varieties
(Seed Act)

EXPLANATORY MEMORANDUM

A. GENERAL

The Seed Act relates to the establishment of rules for the protection of plant varieties, the grant of breeder's rights, the multiplication and marketing of seed of improved plant varieties in order to obtain greater productivity.

1. Background

In the multiplication of plants, a distinction is made between generative and vegetative propagation. The plant material for this propagation is called seed. This Act relates to all plant varieties of all plant genera and species belonging to the plant kingdom, in particular agricultural and horticultural crops.

The marketing of seed of a certain quality and the breeding of new plant varieties must be included in the current legislation in order to meet contemporary developments. This Act provides for legislation regarding seed and the protection of new varieties.

Suriname is a member of the World Trade Organization (WTO) and is obliged to establish legal arrangements for the protection of plant varieties under the TRIPS Agreement concerning the trade-related aspects of intellectual property rights. With the establishment of this Act, it is intended to create legislation whereby multiplication and trade in seed will proceed in such a manner that no uncertainty will exist regarding the origin, characteristics and quality. In this Act, therefore, an important place has been given to the registration of varieties in the Register of Varieties. With the entry, the denomination is controlled and order is brought into the trade assortment. Only seed of varieties which have been entered in the Register of Varieties may be marketed under the established name. Seed industries will be developed whereby the different components within the chain of activities are undertaken with respect to the production, processing, quality control, treatment, sorting, storage, marketing and distribution of seed for, inter alia, agricultural and horticultural purposes with the objective of obtaining economic benefits.

In addition, this Act has been drafted in such a manner that it complies with the provisions of the International Convention for the Protection of New Varieties of Plants (UPOV) of 1991. Suriname intends to conform to this international standard in order to offer breeders in Suriname the same protection as in other countries, and to gain access to improved varieties of international breeders. The breeder's right is granted on the basis of the objective criteria of novelty, distinctness, uniformity and stability.

For the protection of breeding work, this Act contains the breeder's right and the marketing of seed of plant varieties. By breeding work is meant the breeding and development of new plant varieties by both natural persons and legal entities, i.e. institutions or enterprises. The breeder may be an amateur, gardener, a producer, a scientist, a plant breeding institute or an enterprise specialised in plant breeding.

Chapter 1 contains the definitions of this Act.

2. The Council

A Council is established which has, inter alia, the task of admitting varieties, granting the breeder's right, registering varieties in the Register of Varieties and establishing certification standards for seed. The costs of the Council are borne by the State budget and these costs are in principle covered by the compensations to be established by the Minister. These concern, inter alia, tariffs for the processing of applications for the grant of breeder's rights and for admission, including the carrying out of the technical examination necessary therefor as referred to in Article 13, and for the processing of requests for entries and annotations in the Register of Varieties.

The starting point is that admission costs must in principle be charged, because there is an individually attributable benefit from the admission activities of the government. The desirability of charging admission costs applies to the admission of varieties and the grant of the breeder's right, since the applicant benefits therefrom, while the government does not benefit from an admission or from the grant of the breeder's right. However, it is undesirable to charge admission costs if this leads to unacceptable legal inequality, the charging undermines the purpose of the regulation or the competitive position is unacceptably damaged. These situations do not apply to the grant of the breeder's right or the admission of varieties.

Conditions applicable to the charging of admission costs include, inter alia, that it must be clear which costs are incurred and which costs are charged. Moreover, the tariff requested may not exceed the actual costs and there must be a direct connection between the costs incurred and the compensation to be paid.

The conditions for establishing a tariff are referred to in Article 5. In establishing the tariffs by the Minister, these conditions must be observed.

Not all costs of the Council can be brought under the heading of admission and enforcement costs. The Council will also have to perform policy-supporting activities, which do not yield a benefit for individual applicants. The costs of the Council will therefore not be covered exclusively from the proceeds of the tariffs, but partly also from contributions of the State and other contributions or compensations.

3. The Seed Inspection Service

On the basis of Article 6, the Seed Inspection Service has the objective of establishing by means of inspections whether seed complies with the rules established pursuant to Chapters 5 and 6. The Service may not have a profit motive in the performance of its statutory tasks. A proper safeguarding of the public interest entails that the assigned tasks must be performed, regardless of whether the activities associated with these tasks are profitable for the Service or not.

The Service is obliged to levy cost-covering compensations for the costs of inspection or the supervision thereof. The activities of the Service concern admission costs and post-admission costs: establishing by means of inspections whether seed complies with the applicable quality requirements and performing business controls to establish whether the requirements are still being complied with. The same requirements apply to the establishment of compensations by the Service as to the establishment of compensations by the Council. The condition is therefore that the tariffs to be established must be cost-covering and that they have a direct connection with the work performed.

4. The Register of Varieties

Chapter 4 regulates the entry of varieties in the Register of Varieties and the procedure for establishing variety denominations. This is necessary to keep the basic data of all types of varieties relevant for an orderly course of trade in seed. The starting point is that the variety denomination must be suitable to identify the variety. To that end, the denomination must in any event be different from every other denomination used for a variety of the same crop or a related crop.

5. Admission of varieties

Chapter 5 regulates the procedure for the admission and entry of varieties in the Register of Varieties. The conditions applicable to the admission procedure for varieties of agricultural and horticultural crops differ per crop and must be described separately, which means that the different categories of crops must also be further defined. The great diversity of detailed and technical conditions applicable to the admission of varieties justifies further establishment by decision of the Minister, with the advantage that better response can be given to changes in legislation.

6. Breeder's right

Chapter 6 is devoted to the breeder's right, in which it is regulated that the breeder's right can be granted for varieties of all crops of the plant kingdom. The rule is that this right belongs to the breeder, that is to say the person who has himself bred, or discovered and developed, a variety or his successor in title. The deed referred to in this Chapter in Articles 28, 29, 30 and 35 concerns a legalised document.

7. Multiplication of seed and marketing of seed

Seed of varieties which have been admitted must ultimately reach the grower. This Act provides for rules to multiply seed of the varieties. This Act also determines on the basis of which the Council can recognise and register suppliers. The multiplication of seed is regulated in Chapter 7 and the marketing of seed in Chapter 8.

8. Other provisions

Chapter 9 regulates other matters concerning administrative enforcement, objection and appeal, duty of confidentiality, penal provisions and transitional provision.

B. ARTICLE BY ARTICLE

Article 1

This article contains the definitions of the different terms used in this Act. It is important to describe the terms unambiguously, so that no differences in interpretation arise. In sub o, the definition 'marketing' relates to business activities; therefore, the transfer or supply of seed between private individuals does not fall under this.

Article 2

The Council functions on the basis of specific expertise, hence a broad composition. There is independent judgment and strict execution of tasks. Participation of civil society is therefore particularly important.

The Council must make provisions so that persons and institutions cooperating with it are given the opportunity to make proposals for the improvement of working methods and procedures. In paragraph 5, non-active participation means the fact that a member has not attended three (3) consecutive meetings without valid reasons.

Article 3

The Council ensures in the performance of its tasks that timely preparation takes place, that procedures are correctly executed and that interested parties are given the opportunity to contribute in the context of efficient service delivery and making proposals thereto. The Council decides on applications for the admission of plant varieties and grants the breeder's right.

Article 4

This article regulates financial accountability and disclosure. The Council falls under the accountable rules of the Government. This means that the supervision of management and operation must meet the requirements of openness, recognisability and transparency. The provisions of the Act on Annual Accounts (S.B. 2017 no. 84) must also be observed. The budget items must be provided with an explanation, from which it appears on which tasks assigned to the Council by or pursuant to this Act or other activities they relate. The Council is furthermore obliged to report significant differences between actual expenditure and revenue and budgeted expenditure and revenue during the year. A deviation of 15% and more shall in any event be regarded as 'significant'.

Article 5

By decision of the Minister, the manner and frequency of consultation between the Council and the business community shall be established as regards general subjects such as the manner in which the technical examination is carried out and the costs of the work performed by the Council or under the responsibility of the Council.

The charging of costs applies to the admission of varieties and the grant of the breeder's right, since the applicant benefits therefrom.

In paragraph 1(c), a list is given of the services for which tariffs are established. There must be a direct connection between the costs incurred and the compensation to be paid. The Council is obliged to levy cost-covering compensations for inspection and supervision. The activities of the Council concern the admission costs, establishing by means of inspections whether seed complies with the applicable quality requirements and performing business controls.

Article 6

The Service supports the Council and is charged with the administrative processing of applications, the performance of seed quality control, the carrying out of the technical examination and the preparation of decisions to be taken by the Council. With a view to its tasks, besides administrative staff, experts will also be attached to the Service, who will ensure the necessary technical expertise. Seed quality control includes field inspection, sampling and laboratory control of seed in accordance with the prescribed ISTA rules and procedures. Recognised institutions or institutes may be approached if necessary to assist the Service where needed. These must meet the minimum requirements and conditions which have the approval of the Minister, having heard the Director and the Council.

Article 7

Paragraphs 4 and 5 give a list of the tasks and powers of seed inspectors and of the activities performed in connection with the inspection. Activities include, inter alia, research into variety purity and purity of seed, sampling and analysis of seed at the request of trading houses, individual growers and breeders. A seed inspector is competent, without prior announcement, at any reasonable time, with or without the assistance of the police, to enter and inspect any place, with the exception of a dwelling, of which he has reason to assume that an offence pursuant to this Act has been committed. Lists, registers, documents, other items and objects found may be inspected and seized, if there are valid reasons that evidence can thereby be provided of the commission of a criminal offence.

Article 8

The Council can not only establish, cancel or amend a variety denomination at the request of the applicant, but also ex officio. The decisions of the Council will therefore not only be notified to the applicant, but also to the holder of the breeder's right, any person having an interest in the admission of a variety or who can assert rights to a mark or trade name corresponding with a variety denomination.

A datum relevant for the Register of Varieties is the mention of the technical examination, which is necessary for both the admission of a variety and the grant of the breeder's right in order to be able to establish whether the conditions for admission of a variety and the grant of the breeder's right have been met.

For the sake of clarity, one general register has been chosen for the entry of both admitted varieties and varieties for which the breeder's right has been granted.

In order to promote mutual coordination, one body, the Council, has been chosen to be charged with the decision-making of both procedures. The data mentioned at the entry of a variety in the Register of Varieties may differ per crop. The entry in the Register of Varieties serves to bring order into the

trade assortment and to control the denomination. The starting point is that only seed of varieties which have been entered in the Register of Varieties may be marketed under the established name. In the organisation of the Register of Varieties, account is taken of the conditions applicable to procedures for the admission of varieties and the grant of the breeder's right.

A variety denomination is the general designation of the variety and remains so even after the breeder's right has expired (Art. 36(1)). This prevents confusion on the market. Trademarks may be used alongside the variety denomination, provided that the variety denomination always remains clearly recognisable (Art. 36(2)).

Articles 9 to 12

The Register of Varieties shall be published and is accessible to everyone. It is important for the applicant that the entry takes place as soon as possible; therefore, Article 10 provides that the Council may already decide on a provisional entry if only a characterising description has been established. The condition for this is, however, that one or more characteristics are described which can serve to demarcate the variety from other varieties. After the examination, the provisional description is replaced by a definitive one.

Articles 13, 14 and 15

The carrying out of the technical examination referred to in Article 13(1) is done by the Service and can if necessary be outsourced to recognised institutions or establishments as referred to in Article 6. For plant varieties, both in the admission of a variety and in the grant of the breeder's right, the technical examination must take place into the requirements of distinctness, uniformity and stability. From the point of view of efficiency and to save costs for the business community, it is prevented that the examination into these characteristics takes place twice. Article 13 therefore offers the possibility to establish by decision of the Minister rules regarding the cases in which and the conditions under which the Council can adopt research reports which have been drawn up in the context of another procedure with respect to the same variety.

The procedure for the admission of varieties corresponds as much as possible to the procedure for the grant of the breeder's right. Since both procedures are housed with the Council, there is a freedom of choice for the applicant regarding the order. At the request of the applicant, the technical examination is supplemented with the novelty examination at the grant of the breeder's right or the examination into the cultural and use value, at the admission of agricultural crops. The advantage of this working method is that the person concerned can turn to one body for all his questions.

A variety is deemed to be a matter of common knowledge, as referred to in Article 13(2), if certain aspects have been taken into consideration such as the marketing of the variety, the publication of detailed descriptions, the filing of an application for the breeder's right or the registration of the variety in the Register of Varieties. If the variety has been entered, it is deemed to be a matter of common knowledge from the date of the application, on the condition that the application actually leads to the obtaining of the breeder's right or registration of the variety. The existence of living plant material in public plant collections is also deemed to mean that the variety is a matter of common knowledge. The aspect of common knowledge cannot be limited to national or geographical boundaries.

An important starting point is that the grant of the breeder's right may not be dependent on other conditions, such as the cultural and use value. In this Act, a strict separation is therefore made between the admission of a variety (Chapter 5), whereby among other things the cultural and use value is tested, and the grant of the breeder's right (Chapter 6), which exclusively tests the objective breeder's right conditions.

Articles 16, 17 and 21

The Council examines whether the variety complies with the criteria referred to in Article 13. Ultimately, the Council decides whether the breeder's right can be granted, whereby the description of the variety and the denomination are also established. The variety is subsequently entered in the Register of Varieties whereby mention is made that the breeder's right has been granted with respect to the variety. For the technical examination in the context of the grant of the breeder's right, Articles 17, 18 and 19 contain a corresponding provision.

The grant of the breeder's right is not dependent on the admission of the variety on the basis of Chapter 5. The cultural and use value, referred to in Article 13(5), plays no role in the assessment of the breeder's right.

Article 16 further regulates national treatment, whereby nationals of other contracting parties enjoy the same treatment as Surinamese.

Article 17 provides for the right of priority (12 months).

Article 21 safeguards the independence of protection: Suriname does not refuse a right on the ground that protection in another State has been refused or has expired.

Furthermore, Article 21 regulates the provisional protection during the application procedure, whereby the breeder is entitled to equitable remuneration if the breeder's right is granted. This compensation is, however, only due if the breeder's right is actually granted. During the procedure, the applicant does not yet have a legal position as holder of the breeder's right, but he can act against infringers provided he has informed them of the pending application.

Article 22

For transparency, not only the entry and the variety denomination are published, but also the application for the grant of the breeder's right. This is important to inform third parties and works through in the provisional protection of the breeder during the application procedure (Article 21).

Article 23

The breeder's right in Suriname also extends to products made directly from harvested material of a protected variety, if the harvested material has been obtained through unauthorised use of propagating material. This offers the breeder maximum protection against misuse. It has been included when a variety can be regarded as derived from another variety. With the formulation, colour mutants must for example be regarded as a derived variety. Comparable provisions have been made for non-clearly distinguishable and hybrid varieties. This means that if the breeder derives a new variety from a protected variety whereby the characteristics of the first variety are largely maintained, he may only exploit the derived variety with the permission of the holder of the breeder's right of the initial variety.

In practice, this means that the holder of the breeder's right is entitled to compensation from the person who builds on his breeding work. The holder of the breeder's right can have his exclusive right exercised by another by granting a licence. The licensee thereby obtains the competence to perform the acts referred to above in principle for the entire duration of the breeder's right. In addition, the holder of the breeder's right can be obliged to grant a licence if the public interest so requires. This may be thought of in the situation where the interest of food supply requires that the market is guaranteed seed.

The scope of the breeder's right has been formulated in this article in such a manner that the breeder's right relates not only to propagating material, but also to harvested material if that material has been obtained through unauthorised use of propagating material. Furthermore, the right of exhaustion has been formulated in such a manner that it applies to the territory of Suriname.

The breeder's right is further extended to so-called essentially derived varieties. This prevents third parties from exploiting the investments of the original breeder unlawfully through minimal adjustments, such as selecting a mutant or genetic manipulation, without his permission. To establish whether a variety is an EDV, the existence of a relationship of essential derivation between varieties is a matter for the titleholder of the breeder’s right in the initial variety concerned. The Act provides for exceptions for private use, experimental use and the breeding of other varieties, namely the breeder's exemption.

This article also relates to the possibility to establish a so-called farmers' privilege with respect to crops to be designated, whereby users of protected varieties may use the product of the harvest, which they have obtained by planting a protected variety within their own enterprise, for propagation purposes within their own enterprise. The conditions and limitations of the use of the so-called farmers' privilege and the compensations to be paid to the holder of the breeder's right shall be established by ministerial decision.

Suriname decides hereby to restrict the breeder's right for farmers, on the condition that the legitimate interests of the breeder are safeguarded and a compensation is paid.

Article 24

For the grant of a licence, it must be clear that the patent holder can only exploit his invention via the specific variety. If the invention can also be exploited with the aid of another, unprotected variety, a licence for the protected variety is not necessary.

It is hereby guaranteed that the holder of the breeder's right receives equitable remuneration, for the protection of his legitimate economic interests.

Article 25

In the event that the holder of a breeder's right does not fulfil his obligations as referred to in Article 24, the Council can grant a licence at the request of interested parties. This of course only comes into consideration if the parties cannot reach agreement among themselves.

Article 30

The pledge also relates to compensations received for licences, if a provision to that effect has been included in the deed by which the pledge is established. The attachment has the consequence that the attaché can no longer voluntarily alienate, encumber or restrict his right by a licence.

Article 33

Since the Register of Varieties is accessible to everyone, it can be ascertained whether a breeder's right applies to a variety. A person who multiplies or markets seed of this variety without the permission of the holder of a breeder's right, will not be able to argue that this was not intentional.

Article 34

With the publication of a registered breeder's right, the community is deemed to be aware of the rights arising therefrom. The Council and the Service ensure that the Act is enforced for the protection of the breeder's right.

Article 35

The duration of the breeder's right is related to the period within which crops reach full maturity and the exploitation of the breeder's right becomes profitable. Because it takes longer before tree species reach their full growth, a longer duration of protection of the breeder's right is justified.

The duration of protection of 25 years and 30 years for trees and vines referred to in this article offers the breeder in Suriname extra robust protection, appropriate to the investments in plant breeding.

Articles 35, 37, 38 and 39

These articles regulate the waiver, claiming, nullity and declaration of cancellation of the breeder's right. Waiver is effected by the holder of the breeder's right, declaration of cancellation takes place by operation of law, claiming and nullity take place at the request of interested parties before the court.

Nullity of the breeder's right is at issue as soon as it appears that the breeder's right has been wrongly granted, because a variety subsequently does not meet the applicable requirements of novelty, uniformity, distinctness and stability. The claiming relates to the situation where the breeder's right has been granted to a person who has wrongly asserted a claim thereto, because not he, but another person has developed the variety through his own breeding work. It is also possible that the holder of the breeder's right does not assert an exclusive claim thereto, because the variety has been developed with one or more persons. From the point of view of legal certainty, claiming is possible up to a maximum of five years after the breeder's right has been granted. Nullity may be claimed at any time.

In order to promote legal certainty, the grounds for cancellation and nullity of the breeder's right have been described limitatively in Articles 35 and 37. A once granted right cannot simply be revoked, but only when it appears that the basic conditions were wrongly met, or when the holder does not fulfil his administrative obligations, such as paying fees or maintaining the variety.

Articles 40 to 42

These articles deal with the multiplication of seed. A registration or recognition can only be granted if the supplier and his enterprise meet the conditions included in this Act. These conditions relate, inter alia, to the production process, quality assurance, documentation regarding the production process, administration, provisions for supervision and compliance with the provisions of the Act.

Suppliers can be obliged to identify critical points in the production process and to develop and apply methods for controls. Taking samples for analysis, keeping records of production data in a register and marketing seed belong to the conditions.

Provision has also been made for rules regarding the filing of an application for recognition and registration as a producer of certified seed and how that recognition and registration can be revoked.

Articles 43 to 46

These articles deal with rules regarding the marketing of seed. In the event of an incorrect denomination, a reasonable period for adjustment will be given. The recognition and registration as a supplier are revoked if the adjustment has not been made after the expired period. A sample from each batch of imported seed must be submitted to the Service by the recognised seed importer, so that it can be ascertained whether all set quality standards have been met.

Articles 47 and 48

Article 47(6) has been included for clarification of the prevention of the introduction, spread and control of pests in plants, plant products and other regulated goods pursuant to the Plant Protection Act 2020. Chapters 4 to 8 of this Act regulate the procedures regarding the entry of varieties, the admission of varieties, the grant of the breeder's right, the multiplication and the marketing of seed. Because it is not possible to include all procedural provisions in this Act, provision has been made to establish further rules by decision of the Minister regarding the applications and requests filed with the Council. These articles lay a basis for the implementation of future CARICOM and international legislation in our national legislation. Besides the inclusion of a general delegation for implementation, these articles provide for the possibility of timely implementation of CARICOM measures by establishing further rules by decision of the Minister. The Minister has pursuant to the provisions of Chapter 8 the competence to grant exemption or dispensation for the marketing of seed. From the point of view of legal certainty, the criteria for this have been included in this Act.

Article 49

A Fund for management is established in order to have financial resources available for the execution of activities by the Service. The Fund must serve as a source of income for this. It is also the responsibility of the government to ensure that the Fund has sufficient financial resources.

Given at Paramaribo, the _____

JENNIFER SIMONS

[End of Annex II and of document]