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SENATE

BILL

AN ACT to amend the Protection of New Plant Varieties Act, Chap. 82:75

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REPUBLIC OF TRINIDAD AND TOBAGO—2026

THE PROTECTION OF NEW PLANT VARIETIES (AMENDMENT) BILL, 2026

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend the Protection of New Plant Varieties Act, Chap. 82:75 ("the Act") to reflect the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as amended in 1972, 1978 and 1991 ("1991 UPOV Convention"), and to facilitate the accession of Trinidad and Tobago to the 1991 UPOV Convention.

This Bill contains 26 clauses.

Clause 1 provides for the short title.

Clause 2 provides for the commencement of this Act.

Clause 3 provides for the interpretation clause of the Bill.

Clause 4 amends section 2(1) of the Act by amending the definitions of "breeder" and "Convention". The definition of "breeder" would now include—

(a) the employer of a person who has bred, or discovered and developed, a plant variety;

(b) a person who has commissioned the work of the person who has bred, or discovered and developed, a plant variety; and

(c) the successor in title of the person who has bred, or discovered and developed, a plant variety.

The definition of "Convention" would now include the date of adoption of the International Convention for the Protection of New Varieties of Plants in 1961, and the date that the Convention was revised in 1972.

Clause 5 inserts a new section after section 2 of the Act to provide for the application of the Act to all plant genera or species.

Clause 6 amends section 3 of the Act to provide for plant breeder's rights to be granted in respect of plant varieties of any genera or species.

Clause 7 repeals and substitutes section 4 of the Act. This amendment provides for a plant variety to be considered new where the propagating or harvested material of the plant variety has not been sold, or otherwise disposed of by the plant breeder, or with his consent, by certain time limits before the filing date of his application for a plant breeder's right.

Clause 8 repeals and substitutes section 6 of the Act. This amendment provides for a plant variety to be considered homogeneous if, dependent on the variation that may be expected from the plant variety's propagation, it is sufficiently homogeneous in its relevant characteristics.

Clause 9 repeals section 8 of the Act. Section 8 of the Act provides for the publication by the Minister of a list of the plant genera and species to which the Act applies.

Clause 10 amends section 9 of the Act to remove all references in the section to a successor in title of a plant breeder. This is a consequential amendment based on the amendment to the definition of "breeder" to now include the successor in title of a plant breeder.

Clause 11 repeals and substitutes section 10 of the Act to provide for—

(a) the provisional protection of an applicant for the grant of a plant breeder's right during a particular period, and

(b) a plant breeder to be entitled to equitable remuneration from any person who has carried out acts, during a particular period, which require the plant breeder's authorisation under section 15 of the Act.

Clause 12 amends section 12(1) of the Act to remove all references to "owner" in the section. This is a consequential amendment based on the amendment to the definition of "breeder".

Clause 13 repeals and substitutes section 15 of the Act and inserts sections 15, 15A and 15B. The new section 15 increases the number of acts which require the prior authorisation of the plant breeder, in respect of—

(a) the propagating material of a protected plant variety;

(b) harvested material obtained through unauthorised use of a protected plant variety; and

(c) products made directly from the harvested material obtained through unauthorised use of a protected plant variety.

The new section 15 would also apply to plant varieties which are essentially derived from a protected plant variety, plant varieties which are not clearly distinguishable in keeping with section 5 from a protected plant variety, and plant varieties whose production requires repeated use of a plant variety.

The new section 15A provides for exceptions to the authorisations of a plant breeder required under section 15, and the new section 15B provides for the exhaustion of a plant breeder's rights for certain material.

Clause 14 repeals and substitutes section 17 of the Act. This amendment provides for a plant breeder's right to be granted for twenty years, and in the case of trees or vines, for twenty-five years.

Clause 15 amends section 19 of the Act. This clause amends section 19(2) of the Act to provide the grounds by which the Controller of the Intellectual Property Office shall declare a plant breeder's right null and void at the request of any person. This clause also amends section 19(4) of the Act to provide the grounds by which the Controller of the Intellectual Property Office shall declare a plant breeder's right forfeit.

Clause 16 amends section 22 of the Act. This clause amends section 22(1) of the Act to require an applicant for the protection of a plant variety who wishes to make use of the priority of an earlier application ("right of priority"), to also submit to the Intellectual Property Office samples or other evidence that the plant variety is the same in both applications. This clause also amends section 22(4) of the Act to provide for the length of time that an applicant shall be entitled to furnish the Intellectual Property Office with information, documents or material for the purpose of the examination of their application and the plant variety under sections 30 and 31 of the Act.

Clause 17 amends section 24 of the Act to, *inter alia*—

(a) provide that a plant variety is required to be designated by a denomination which will be its generic designation;

(b) provide that, subject to section 27 of the Act, no rights in a variety denomination shall hamper free use of it in connection with a plant variety, even after the expiration of the plant breeder's right;

(c) delete the words "State" and "State party to the Convention" wherever they occur and substitute the definition "Contracting Party", as defined in section 2 of the Act;

(d) provide that the Intellectual Property Office shall refuse to register the variety denomination or require the plant breeder to propose another denomination within a prescribed period, where the variety denomination does not meet the requirements of sections 24(2) and (3) of the Act; and

(e) require a variety denomination to be registered by the Intellectual Property Office at the same time that the plant breeder's right is granted.

Clause 18 amends section 25 of the Act. By this amendment, upon the publication of a periodical required under section 25 of the Act, any Authority of a Contracting Party to the 1991 UPOV Convention may address its observations on the registration of a variety denomination to the Intellectual Property Office.

Clause 19 amends section 27 of the Act. This amendment provides that the Controller of the Intellectual Property Office shall require a plant breeder to submit another denomination for a plant variety, in instances where, by reason of a right of priority, the use of the denomination is forbidden to a person who is obliged to use the denomination in accordance with section 26(1) of the Act.

Clause 20 amends section 31 of the Act. This clause—

(a) amends section 31(1) of the Act to provide that the Controller of the Intellectual Property Office shall reject an application where the plant variety does not fulfil the conditions under sections 3 to 9 of the Act;

(b) amends section 31(4) of the Act to include that the Controller of the Intellectual Property Office may grow the plant variety or carry out other

necessary tests, or cause the same to be done, where the Controller determines that it is expedient to do so in the course of an examination of an application; and

(c) repeals section 31(8) and (9) of the Act.

Clause 21 repeals and substitutes Part X of the Act to remove the process for oppositions against the grant of a plant breeder's right, and provide for a process for the invalidation of the grant of a plant breeder's right by the Court.

Clause 22 amends section 34(1) of the Act to require that proceedings for forfeiture of a plant breeder's right shall be initiated by the Controller of the Intellectual Property Office or a third person if any of the conditions under section 19(4) of the Act are fulfilled.

Clause 23 amends section 36(1) of the Act. This is a consequential amendment based on the amendment to Part X of the Act to provide for a process for the invalidation of the grant of a plant breeder's right by the Court.

Clause 24 amends section 44 of the Act. This clause amends section 44(4) and (5) of the Act to provide for the payment of equitable remuneration by the holder of a compulsory licence under section 44 of the Act to the licensor.

Clause 25 amends section 46*(a)* of the Act. This is a consequential amendment based on the amendment to Part X of the Act to provide for a process for the invalidation of the grant of a plant breeder's right by the Court.

Clause 26 is a savings and transitional clause. This clause provides that the Protection of New Plant Varieties Order, Chap. 82:75 shall continue in force for one year from the date of commencement of this Act. This clause also provides that a plant variety belonging to a genus or species not listed in the Protection of New Plant Varieties Order shall be considered to satisfy the condition of novelty under section 4 of the Act under certain conditions. The latter only applies for applications for a plant breeder's right that are filed within one year from the date of commencement of this Act.

THE PROTECTION OF NEW PLANT VARIETIES (AMENDMENT) BILL, 2026

Arrangement of Clauses

Clause

1. Short title
2. Commencement
3. Interpretation
4. Section 2 amended
5. Section 2A inserted
6. Section 3 amended
7. Section 4 repealed and substituted
8. Section 6 repealed and substituted
9. Section 8 repealed
10. Section 9 amended
11. Section 10 repealed and substituted
12. Section 12 amended
13. Section 15 repealed and substituted
14. Section 17 repealed and substituted
15. Section 19 amended
16. Section 22 amended
17. Section 24 amended
18. Section 25 amended
19. Section 27 amended
20. Section 31 amended
21. Part X repealed and substituted
22. Section 34 amended
23. Section 36 amended
24. Section 44 amended
25. Section 46 amended
26. Savings and transitional provisions

BILL

An Act to amend the Protection of New Plant Varieties Act, Chap. 82:75

[, 2026]

WHEREAS the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as amended in 1972 and 1978, (hereinafter referred to as "1978 UPOV Convention") provides a legal framework for the intellectual property protection of new plant varieties and safeguards plant breeders' rights; Preamble

And whereas Trinidad and Tobago brought into operation on December 1, 1997 the Protection of New Plant Varieties Act, Chap. 82:75 to give effect to the 1978 UPOV Convention;

And whereas Trinidad and Tobago acceded to the 1978 UPOV Convention on December 30, 1997, and became a member of the International Union for the Protection of New Varieties of Plants on January 30, 1998;

And whereas the 1978 UPOV Convention was further amended in 1991 (hereinafter referred to as "1991 UPOV Convention") and Trinidad and Tobago is desirous of acceding to the 1991 UPOV Convention;

And whereas it is necessary to amend the Protection of New Plant Varieties Act to reflect the 1991 UPOV Convention, and to facilitate the accession of Trinidad and Tobago to the 1991 UPOV Convention:

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title

1. This Act may be cited as the Protection of New Plant Varieties (Amendment) Act, 2026.

Commencement

2. This Act comes into operation on such date as is fixed by the President by Proclamation.

Interpretation
Chap. 82:75

3. In this Act, "the Act" means the Protection of New Plant Varieties Act.

Section 2 amended

4. Section 2(1) of the Act is amended—

(a) by deleting the definition of "breeder" and substituting the following definition:

" "breeder" means—

(a) a person who has bred, or discovered and developed, a variety;

(b) a person who is the employer of the person referred to in paragraph *(a)*;

(c) a person who has commissioned the work of the person referred to in paragraph *(a)*; or

(d) the successor in title of the person referred to in paragraph *(a)*, *(b)* or *(c)*;"; and

(b) by deleting the definition of "Convention" and substituting the following definition:

" "Convention" means the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991;".

Section 2A inserted

5. The Act is amended by inserting after section 2, the following section:

"Application of Act

2A. This Act applies to all plant genera or species.".

Section 3 amended

6. Section 3 of the Act is amended by deleting the words "of those genera or species listed in the Schedule" and substituting the words "of any genera or species".

Section 4 repealed and substituted

7. Section 4 of the Act is repealed and the following section is substituted:

"Novelty

4. A variety shall be considered new if, at the date of filing of the application for a breeder's right, propagating or harvested material of the variety has not been sold or otherwise disposed of to others, by or with the consent of the breeder, for purposes of exploitation of the variety—

(a) in Trinidad and Tobago, earlier than one year before the date of filing of the application; and

(b) outside of Trinidad and Tobago—

(i) earlier than four years before the date of filing of the application; or

(ii) in the case of trees or vines, earlier than six years before the date of filing of the application.".

Section 6 repealed and substituted

8. Section 6 of the Act is repealed and the following section is substituted:

"Homogeneity

6. The variety shall be considered homogeneous if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently homogeneous in its relevant characteristics.".

Section 8 repealed

9. Section 8 of the Act is repealed.

Section 9 amended

10. Section 9 of the Act is amended by deleting the words "or his successor in title" wherever they occur.

Section 10 repealed and substituted

11. Section 10 of the Act is repealed and the following section is substituted:

"Presumption of title and provisional protection

10. (1) An applicant shall be considered entitled to protection, in the absence of proof to the contrary, but where the application is made by a successor in title, it shall be accompanied by sufficient proof of succession.

(2) Provisional protection shall be provided to the applicant to

safeguard the interests of the breeder during the period between the publication of the application for the grant of a breeder's right and the grant of that right.

(3) The holder of a plant breeder's right shall at least be entitled to equitable remuneration from any person who, during the period under subsection (2), has carried out acts which, once the right is granted, require the breeder's authorisation in accordance with section 15.".

Section 12 amended

12. Section 12(1) of the Act is amended by deleting the word "owner" and substituting the word "breeder".

Section 15 repealed and substituted

13. Section 15 of the Act is repealed and the following sections are substituted:

"Scope of the breeder's right

15. (1) Subject to sections 15A and 15B, prior authorisation of the holder of the plant breeder's right shall be required for the following acts in respect of the propagating material of the protected variety:

(a) production or reproduction (multiplication);

(b) offering for sale;

(c) selling or other marketing;

(d) conditioning for the purpose of propagation;

(e) exporting;

(f) importing;

(g) stocking for any of the purposes referred to in paragraphs *(a)* to *(f)*.

(2) The breeder may make his authorisation under subsection (1) subject to conditions and limitations.

(3) Subject to sections 15A and 15B, the acts referred to in subsection (1) in respect of harvested material, including entire plants and parts of plants, obtained through the unauthorised use of propagating material of the protected variety shall require the authorisation of the breeder, unless the breeder has had reasonable opportunity to exercise his right in relation to the said propagating material.

(4) Subject to sections 15A and 15B, the acts referred to in subsection (1) in respect of products made directly from harvested material of the protected variety referred to in subsection (3) 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.

(5) Subsections (1), (3) and (4) also apply 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 section 5 from the protected variety; and

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

(6) For the purposes of subsection (5)*(a)*—

(a) a variety shall be considered to be essentially derived from another variety (hereinafter referred to as "the initial variety") when—

(i) 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;

(ii) it is clearly distinguishable from the initial variety; and

(iii) 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; and

(b) essentially derived varieties may be obtained 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 engineering

Exceptions to the breeder's right

15A. (1) Authorisation by the holder of the plant breeder's right shall not be required for—

(a) utilisation of the variety protected by that right, as an initial source of variation for the purpose of breeding other varieties, and, except in instances where section 15(5) applies, acts referred to in section 15(1), (3) and (4), in respect of such other varieties;

(b) acts done privately and for non-commercial purposes; and

(c) acts done for experimental purposes.

(2) The breeder's right shall not be deemed infringed by farmers who, within reasonable limits and subject to the safeguarding of the legitimate interests of the holder of the breeder's right, uses 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 referred to in section 15(5)*(a)* or *(b)*.

(3) The reasonable limits and the means of safeguarding the legitimate interests of the holder of the breeder's right shall be prescribed in Regulations made under section 46.

Exhaustion of breeder's right

15B. (1) The breeder's right shall not extend to acts concerning any material of the protected variety, or of a variety referred to in section 15(5) which has been sold or otherwise marketed by the breeder or with his consent in Trinidad and Tobago, or any 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 purposes.

(2) For the purposes of this section, "material", in relation to a variety, means—

(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.".

14. Section 17 of the Act is repealed and the following section is substituted: Section 17 repealed and substituted

"Period of protection

17. (1) Subject to subsection (2), the plant breeder's right shall be granted for a period of twenty years from the date of the grant of the breeder's right.

(2) In the case of trees or vines, the plant breeder's right shall be granted for a period of twenty-five years from the date of the grant of the breeder's right.".

15. Section 19 of the Act is amended— Section 19 amended

(a) in subsection (2), by deleting paragraphs *(a)* and *(b)* and substituting the following paragraphs:

"*(a)* the variety is not new or distinct within the meaning of sections 4 and 5 at the time of the grant of the breeder's right;

(b) the grant of the breeder's right has been essentially based upon information and documents furnished by the breeder, and the conditions in section 6 or 7 were not complied with at the time of the grant of the breeder's right; or

(c) the breeder's right has been granted to a person who is not entitled to it, unless it is transferred to the person who is so entitled."; and

(b) by repealing subsection (4) and substituting the following subsection:

"(4) The Controller shall declare the plant breeder's right forfeit—

(a) if it is established that the conditions in section 6 or 7 are no longer fulfilled;

(b) where the holder of the right, after being requested to do so and within the prescribed period—

(i) does not provide the Office with the information, documents or material deemed necessary for verifying the maintenance of the variety; and

(ii) does not propose, where the denomination of the variety is cancelled after the grant of the right, another suitable denomination; and

(c) where the holder of the right does not pay the renewal fee that is due, having been reminded to do so by the

Office, and after three months have elapsed since the date of the reminder.".

16. Section 22 of the Act is amended— Section 22 amended

(a) in subsection (1), by inserting after the word "filed" the words ", and samples or other evidence that the variety which is the subject matter of both applications is the same"; and

(b) by repealing subsection (4) and substituting the following subsection:

"(4) The applicant shall be entitled to—

(a) a period of two years after the expiration of the period of priority; or

(b) where the first application is rejected or withdrawn, a reasonable time after such rejection or withdrawal,

in which to furnish to the Office any necessary information, documents or material required for the purpose of the examination under sections 30 and 31.".

17. Section 24 of the Act is amended— Section 24 amended

(a) in subsection (1), by deleting the words "The applicant" and substituting the words "A variety shall be designated by a denomination which will be its generic designation, and an applicant";

(b) by inserting after subsection (1), the following subsection:

"(1A) Subject to section 27, no rights in the designation registered as the variety denomination shall hamper the free use of the denomination in connection

with the variety, even after the expiration of the breeder's right.";

(c) in subsection (2), by deleting the words "save, however, that in a word/figure combination, the figures shall have a meaning in relation to the words" and substituting the words "except where this is an established practice for designating varieties";

(d) in subsection (3)*(c)*, by deleting the words "State party to the Convention" and substituting the words "Contracting Party";

(e) in subsection (4)—

(i) by deleting the word "State" wherever it occurs and substituting in each place the words "Contracting Party"; and

(ii) by deleting the words "mentioned in the preceding paragraph" and substituting the words "referred to in subsection (3) or section 27"; and

(f) by inserting after subsection (4), the following subsections:

"(5) Where a variety denomination does not meet the requirements set out in subsections (2) and (3), the Office shall—

(a) refuse to register the variety denomination; and

(b) require the breeder to propose another denomination within a prescribed period.

(6) A variety denomination shall be registered by the Office at the same time that the plant breeder's right is granted.".

18. Section 25 of the Act is amended by inserting after the words "cancelled by it" the words ", and any Authority of a Contracting Party may address its observations, if any, on the registration of a denomination to the Office". Section 25 amended

19. Section 27 of the Act is amended— Section 27 amended

(a) by renumbering section 27 as section 27(1); and

(b) by inserting after section 27(1) as renumbered, the following subsection:

"(2) If, by reason of a prior right, the use of a variety denomination is forbidden to a person who is obliged to use the variety denomination in accordance with section 26(1), the Controller shall require the breeder to submit another denomination for the variety.".

20. Section 31 of the Act is amended— Section 31 amended

(a) in subsection (1), by deleting the words "of novelty and where that condition is not fulfilled" and substituting the words "under sections 3 to 9 and where those conditions are not fulfilled";

(b) by repealing subsection (4) and substituting the following subsection:

"(4) Where, in the course of the examination, the Controller determines that it is expedient to do so, he—

(a) may—

(i) grow the variety or carry out other necessary tests;

(ii) cause the growing of the variety or the carrying out of other necessary tests; or

(iii) arrange to have the examination done by another national or foreign governmental authority; and

(b) shall take into account the results of the growing tests or other trials which have already been carried out."; and

(c) by repealing subsections (8) and (9).

Part X repealed and substituted

21. Part X of the Act is repealed and the following Part is substituted:

"PART X

INVALIDATION

Invalidation of plant breeder's right

32. (1) An interested person may apply to the Court for the invalidation of the grant of a plant breeder's right.

(2) The Court may invalidate the grant of a plant breeder's right where the person referred to in subsection (1) proves that—

(a) the applicant is not the person who is entitled to the grant of the plant breeder's right;

(b) the variety is not new or distinct at the pertinent dates in accordance with sections 4 and 5;

(c) the variety is neither homogenous nor stable in accordance with sections 6 and 7; and

(d) the variety denomination that the Office intends to register is inadmissible in accordance with sections 24 and 27.

(3) Where the Court invalidates the grant of a plant breeder's right, the grant shall be null and void from the date of the grant of the plant breeder's right.

(4) The decision of the Court or the decision on any appeal therefrom shall be notified to the Controller who shall record the decision and publish a reference to it as soon as possible thereafter.".

22. Section 34(1) of the Act is amended by deleting the words "on his own initiative if the condition under section 19(4)(a) is fulfilled or may be initiated by the Controller or a third person if any of the conditions under section 19(4)*(b)* and *(c)* is fulfilled" and substituting the words "or a third person if any of the conditions under section 19(4) are fulfilled". Section 34 amended

23. Section 36 of the Act is amended— Section 36 amended

(a) in subsection (1)*(c)*, by inserting after the words "forfeit;" the word "or"; and

(b) in subsection (1), by deleting paragraph *(d)*.

24. Section 44 of the Act is amended— Section 44 amended

(a) in subsection (4), by deleting the word "remuneration" and substituting the words "equitable remuneration"; and

(b) in subsection (5), by deleting the words "adequate remuneration" and substituting the words "equitable remuneration".

Section 46 amended

25. Section 46*(a)* of the Act is amended by deleting the words "the handling of opposition,".

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26. (1) The Protection of New Plant Varieties Order made under section 8 of the Act continues in force for a period of one year from the date of commencement of this Act.

(2) A variety belonging to a genus or species not listed in the Protection of New Plant Varieties Order shall be considered to satisfy the condition of novelty under section 4 of the Act, even where a sale or disposal of the variety to others, took place in Trinidad and Tobago—

(a) within four years before the date of filing of the application; or

(b) in the case of trees or vines, within six years before the date of filing of the application.

(3) Subsection (2) applies only to applications for a breeder's right filed within one year from the date of commencement of this Act.

Passed in the Senate this day of , 2026.

Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this day of , 2026.

Clerk of the House

I confirm the above.

Speaker

No. 12 of 2026

SECOND SESSION

THIRTEENTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Protection of New Plant Varieties Act, Chap. 82:75

Received and read the

First time .....

Second time .....

Third time .....