

PROTECTION OF PLANT VARIETIES AND FARMERS RIGHTS

A plant variety represents a more precisely defined group of plants, selected from within a species, with a common set of characteristics.

The Protection of Plant Varieties and Farmers' Right Act, 2001 has been enacted to provide for the establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants.

The objectives of the Act are:

- To establish an effective system for protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants;
- To recognize and protect the rights of the farmers in respect of their contribution made at any time in conserving, improving and making available plant genetic resources for the development of new plant varieties;
- To protect plant breeders' rights to stimulate investment for research and development both in the public and private sector for development of new plant varieties;
- To facilitate the growth of seed industry in the country that will ensure the availability of high quality seeds and planting material to the farmers.

Duration of protection of a registered plant variety

The duration of protection of registered varieties is different for different crops which are as below:

1. For trees and vines - 18 years.
2. For other crops - 15 years.
3. For extant varieties - 15 years from the date of notification of that variety by the Central Government under section 5 of the Seeds Act, 1966.

Registration of Plants

Registration of a plant variety gives protection only in India and confers upon the rights holder, its successor, agent, or licensee the exclusive right to produce, sell, market, distribute, import, or export the variety.

Application for registration

The application for protection under the Act can be made by any of the following persons:

- Any person claiming to be the breeder of the variety;
- Any successor of the breeder of the variety;

- Any person being the assignee or the breeder of the variety in respect of the right to make such application;
- Any farmer or group of farmers or community of farmers claiming to be breeder of the variety;
- Any person authorized to apply on behalf of farmers; or
- Any university or publicly funded agricultural institution claiming to be breeder of the variety.

Criteria for registration of new variety

Novelty - A new variety is deemed to be novel if, at the date of filing of the application for registration for protection, the propagating and harvested material of such variety has not been sold or otherwise disposed of by or with the consent of its breeder or his successor for the purposes of exploitation of such variety for a certain period of time before the date of filing of the application. For sale or disposal of a new variety in India, this time period is earlier than one year. Outside of India, in the case of trees and vines, the time period is earlier than six years. In any other case in India, it is earlier than four years.

Distinctiveness - A new variety is deemed distinct if it is clearly distinguishable by at least one essential characteristic from any other variety whose existence is a matter of common knowledge in any country at the time of filing of the application.

Uniformity - A new variety is deemed uniform if subject to the variation that may be expected from the particular features of its propagation it is sufficiently uniform in its essential characteristics.

Stability - A new variety is deemed stable if its essential characteristics remain unchanged after repeated propagation or, in case of a particular cycle of propagation, at the end of each such cycle.

Prerequisites for filing an application form for registration of plant variety

- (i) Denomination assigned to such variety.
- (ii) Accompanied by an affidavit that variety does not contain any gene or gene sequences involving terminator technology.
- (iii) Complete passport data of parental lines with its geographical location in India and all such information relating to the contribution if any, of any farmer (s), village, community, institution or organization etc in breeding, evolving or developing the variety.
- (iv) Characteristics of variety with description for Novelty, Distinctiveness, Uniformity and Stability.
- (v) A declaration that the genetic material used for breeding of such variety has been lawfully acquired.
- (vi) A breeder or other person making application for registration shall disclose the use of genetic material conserved by any tribal or rural families for improvement of such variety.

Guidelines for submission of applications for Registration of Plant Varieties are as under:

- 1) Every application in triplicate must be in writing and signed by the applicant or their representative. Application should be submitted in hard copy along with all essential requirements by hand till further notice.
- 2) Applications will be received only on Monday to Thursday from 10:00 Hours to 15:00 hours. No application will be accepted on Friday, Saturday and Sunday and Public Holidays.
- 3) Every application must have the name of the applicant, their address and nationally as well as the address of service of their agent (if Applicable).
- 4) A person can file up to a maximum of three applications per day.
- 5) Until otherwise notified in the plant Variety Journal of India, each application should be accompanied with an application charge of Rs. 200/- each by demand draft drawn in favour of the “The Registrar, Plant Variety Registrar, New Delhi”.
- 6) The Application will be received on “first come first serve” basis.
- 7) No applications will be received after business hours.
- 8) On successful submission of application, the application will receive an acknowledgement slip.
- 9) After submission of application, it will be processed according to the provisions of the Rule 29(2) of the Protection of Plant Varieties and Farmers' Right Rules, 2003.
- 10) After depositing the stipulated fees for conducting DUS tests, the office of the Registrar shall issue receipt and number which shall be used for all future references including the checking of the status of application on line.

Plant Authority (PPV&FR Authority)

The Central Government has established the 'Protection of Plant Varieties and Farmers' Rights Authority' in Ministry of Agriculture to administer the various provisions of the Act and take measures to promote the development of new varieties of plants and to protect the rights of the farmers and breeders. The Central Government has also established the 'Plant Varieties Registry' which shall be located in the head office of the Authority. The Authority is empowered to appoint a Registrar-General of plant varieties and other Registrars for the purpose of registration of plant varieties.