

# Protection of Plant Varieties and Farmers' Rights Act, 2001

## Introduction

---

In order to provide for the establishment of an effective system for the protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants it has been considered necessary to recognize and to protect the rights of the farmers in respect of their contributions made at any time in conserving, improving and making available plant genetic resources for the development of new plant varieties. The Govt. of India enacted "The Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001" adopting sui generis system. Indian legislation is not only in conformity with International Union for the Protection of New Varieties of Plants (UPOV), 1978, but also have sufficient provisions to protect the interests of public sector breeding institutions and the farmers. The legislation recognizes the contributions of both commercial plant breeders and farmers in plant breeding activity and also provides to implement TRIPs in a way that supports the specific socio-economic interests of all the stakeholders including private, public sectors and research institutions, as well as resource-constrained farmers.

## Objectives of the PPV & FR Act, 2001

---

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

## Rights under the Act

---

1. **Breeders' Rights** : Breeders will have exclusive rights to produce, sell, market, distribute, import or export the protected variety. Breeder can appoint agent/ licensee and may exercise for civil remedy in case of infringement of rights.
2. **Researchers' Rights** : Researcher can use any of the registered variety under the Act for conducting experiment or research. This includes the use of a variety as an initial source of variety for the purpose of developing another variety but repeated use needs prior permission of the registered breeder.
3. **Farmers' Rights**
  1. A farmer who has evolved or developed a new variety is entitled for registration and protection in like manner as a breeder of a variety;
  2. Farmers variety can also be registered as an extant variety;
  3. A farmer can save, use, sow, re-sow, exchange, share or sell his farm produce including seed of a variety protected under the PPV&FR Act, 2001 in the same manner as he was entitled before the coming into force of this Act provided farmer shall not be entitled to sell branded seed of a variety protected under the PPV&FR Act, 2001;
  4. Farmers are eligible for recognition and rewards for the conservation of Plant Genetic Resources of land races and wild relatives of economic plants;
  5. There is also a provision for compensation to the farmers for non-performance of variety under Section 39 (2) of the Act, 2001 and
  6. Farmer shall not be liable to pay any fee in any proceeding before the Authority or Registrar or the Tribunal or the High Court under the Act.

### Implementation of the Act

---

To implement the provisions of the Act the Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare established the Protection of Plant Varieties and Farmers' Rights Authority on 11<sup>th</sup> November, 2005. The Chairperson is the Chief Executive of the Authority. Besides the Chairperson, the Authority has 15 members, as notified by the Government of India (GOI). Eight of them are ex-officio members representing various Departments/ Ministries, three from

SAUs and the State Governments, one representative each for farmers, tribal organization, seed industry and women organization associated with agricultural activities are nominated by the Central Government. The Registrar General is the ex-officio Member Secretary of the Authority.

### **General Functions of the Authority**

1. Registration of new plant varieties, essentially derived varieties (EDV), extant varieties;
2. Developing DUS (Distinctiveness, Uniformity and Stability) test guidelines for new plant species;
3. Developing characterization and documentation of varieties registered;
4. Compulsory cataloging facilities for all variety of plants;
5. Documentation, indexing and cataloguing of farmers' varieties;
6. Recognizing and rewarding farmers, community of farmers, particularly tribal and rural community engaged in conservation and improvement;
7. Preservation of plant genetic resources of economic plants and their wild relatives;
8. Maintenance of the National Register of Plant Varieties and
9. Maintenance of National Gene Bank.

### **Registration of varieties**

---

A variety is eligible for registration under the Act if it essentially fulfills the criteria of Distinctiveness, Uniformity and Stability (DUS). The Central Government issues notification in official Gazettes specifying the genera and species for the purpose of registration of varieties. So far, the Central Government has notified 157 crop species for the purpose of registration. To access the list, [click here](#).

The PPV&FR Authority has developed "[Guidelines for the Conduct of Species Specific Distinctiveness, Uniformity and Stability](#)" tests or "Specific Guidelines" for individual crop species.

To know the time limit for registration of extant varieties, [click here](#).

To know the registration process, [click here](#)

### **Fees for registration**

---

Application for registration of plant varieties should be accompanied with the fee of registration prescribed by the Authority. Fee for registration for different types of variety is as under:

S.No	Types of Variety	Fees for Registration
1	Extant Variety notified under section 5 of the Seeds Act, 1966	Rs 2000/-
2.	New Variety/Essentially Derived Variety (EDV)/ Extant Variety about which there is common knowledge (VCK)	<ul style="list-style-type: none"> <li>• Individual Rs</li> <li>• Educational R</li> <li>• Commercial F</li> </ul>
3.	Farmers Varieties	No Fee

The Registration of a variety is renewable subject to payment of annual and renewal fee as notified in the Plant Variety Journal of India of the Authority and Gazette of India dated 15.06.2015.

#### DUS Test Centers

---

Authority has notified DUS test Centers for different crops with a mandate for maintaining and multiplication of reference collection, example varieties and generation of database for DUS descriptors as per DUS guidelines of respective crops. To access the list of DUS test Centers, [click here](#).

#### Certificate of Registration

---

The certificate of registration issued will be valid for nine years in case of trees and vines and six years in case of other crops. It may be reviewed and renewed for the remaining period on payment of renewal fees subject to the condition that total period of validity shall not exceed eighteen years in case of trees and vines from the date of registration of the variety, fifteen years from the date of notification of variety under the Seeds Act, 1966 and in other cases fifteen years from the date of registration of the variety.

#### Benefit Sharing

---

The benefit sharing is one of the most important ingredients of the farmers' rights. Section 26 provides benefits sharing and the claims can be submitted by the citizens of India or firms or non-governmental organization (NGOs) formed or established in

India. Depending upon the extent and nature of the use of genetic material of the claimant in the development of the variety along with commercial utility and demand in the market of the variety breeder will deposit the amount in the Gene Fund. The amount deposited will be paid to the claimant from National Gene Fund. The Authority also publishes the contents of the certificate in the PVJI for the purpose of inviting claims for benefits sharing.

### **Rights of Community**

---

1. It is compensation to village or local communities for their significant contribution in the evolution of variety which has been registered under the Act.
2. Any person/group of persons/governmental or non- governmental organization, on behalf of any village/local community in India, can file in any notified centre, claim for contribution in the evolution of any variety.

### **Convention countries**

---

Convention country means a country which has acceded to an international convention for the protection of plant varieties to which India has also acceded or a country which has law of protection of plant varieties on the basis of which India has entered into an agreements for granting plant breeders' rights to the citizen of both the countries. Any person if applies for the registration of a variety in India within twelve months after the date on which the application was made in the convention country, such variety shall, if registered under this Act, be registered as of the date on which the application was made in convention country and that date shall be deemed for the purpose of this Act to be the date of registration.

### **Plant Varieties Protection Appellate Tribunal**

---

There is transitory provision by which it is provided that till the PVPAT is established the Intellectual Property Appellate Board (IPAB) will exercise the jurisdiction of PVPAT. Consequently the Plant Varieties Protection Appellate Tribunal (PVPAT) has been established by appointing Technical Member. All orders or decisions of the Registrar of Authority relating to registration of variety and orders or decisions of the Registrar relating to registration as agent or licensee can be appealed in the Tribunal.

Further, all orders or decisions of Authority relating to benefit sharing, revocation of compulsory license and payment of compensation can also be appealed in the Tribunal. The decisions of the PVPAT can be challenged in High Court. The Tribunal shall dispose of the appeal within one year.