A National Gene Fund has been established by the Authority to receive the contributions from:

- the benefit sharing received in the prescribed manner from the breeder of a variety or an essentially derived variety registered under the Act, or the propagating material of such variety or essentially derived variety, as the case may be;
- the annual fee payable to the Authority by way of royalty;
- the compensation deposited by breeders and
- the contribution from any National and International organizations and other sources.

The Gene Fund shall be utilized for:

- any amount to be paid by way of benefit sharing,
- the compensation payable to the farmer/community of breeders’
- the expenditure for supporting the conservation and sustainable use of genetic resources including in-situ and ex-situ collections and for strengthening the capability of the panchayat in carrying out such conservation and sustainable use,
- the expenditure of the schemes relating to benefit sharing.

Benefit Sharing

- The benefit sharing is one of the most important ingredients of the farmers’ rights. Section 26 provides benefit sharing and the claims can be submitted by the citizens of India or the 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

- It is compensation to village or local communities for their significant contribution in the evolution of variety which has been registered under the Act.
- 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 citizens of both the countries. Any person who 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

The Act provides for establishment of Plant Varieties Protection Appellate Tribunal (PVPAT). 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 the Authority relating to benefit sharing, revocation of compulsory license and payment of compensation can also be appealed in the 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. The decisions of the PVPAT can be challenged in High Court. The Tribunal shall dispose of the appeal within one year.

Address for communication:

Protection of Plant Varieties and Farmers’ Rights Authority
S-2, A Block, NASC Complex, Dev Prakash Shastri Marg, New Delhi-110 012
Tel: 011-25843315, 25840777, 25843808
Fax: 011-25840478
Website: www.plantauthority.gov.in,
E-mail: ppvfra-agri@nic.in

PROTECTION OF PLANT VARIETIES AND FARMERS’ RIGHTS AUTHORITY MINISTRY OF AGRICULTURE, GOVT. OF INDIA
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.

3. To accelerate agricultural development in the country the protection of plant breeders’ rights should be enhanced for investment for research and development both in public & private sector for the development of new plant varieties.

4. To facilitate the growth of seed industry in the country which will ensure the availability of high quality seeds and planting material to the farmers.

General Functions of the Authority

- Registration of new plant varieties, essentially derived varieties (EDV) and extant varieties
- Developing DUS (Distinctiveness, Uniformity and Stability) test guidelines for new plant species
- Developing characterization and documentation of registered varieties
- Compulsory cataloging facilities for all variety of plants
- Sanitation, in-bred and cataloging of farmers’ varieties
- Recoding private, public and research institutions as well as resource-constrained farmers.

To implement the provisions of the Act the Department of Agriculture and Cooperation, Ministry of Agriculture, established the Protection of Plant Varieties and Farmers’ Rights Authority on 11th November, 2005. The Chairperson is the Secretary of the Authority. The Authority is not only in conformity with International Union for the Protection of Plant Varieties and Farmers’ Rights (PPV&FR) Act, 2001; and also provides to implement TRIPs in a way that supports private sector breeding institutions and the 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.

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 non-performance of variety under Section 39 (2) of the Act, 2001; and

- 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.

Registration

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.

- The Authority notified 54 crop species for the purpose of registration. The PPV&FR Authority has developed “Guidelines for the Conduct of Species Specific 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.

Publications of the Authority

- Plant Variety Journal of India
- General and crop specific DUS test guidelines

Fees for registration

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

1. Extant Variety notified under section 5 of the Seeds Act, 1966
   - New Variety/ Essentially Derived Variety (EDV)
   - Individual Rs. 5000/- Educational Rs. 7000/- Commercial Rs.10000/-

2. Derived Variety notified under section 9 of the Act
   - New Variety
   - Individual Rs. 5000/- Educational Rs. 7000/- Commercial Rs.10000/-

3. Extant Variety about which there is common knowledge
   - Individual Rs. 2000/- Educational Rs. 3000/- Commercial Rs. 5000/-

The registration of a variety is renewable subject to payment of annual and renewal fees.

DUS Test Centers

Authority has 52 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. The list of DUS test Centers is available on the official website of the Authority.

Plant Variety Journal of India

Authority publishes its official journal “Plant Varieties Journal of India” (PVJI) as a monthly bilingual (Hindi & English) publication and it is made available to public on the first working day of each month on its official website. This journal has the equivalent status of a gazette under the Regulations, 2006. The contents of Journal includes official and public notices, passport data of plant varieties, DUS test guidelines of crop species, details of certificate of registration and other related matters.

Certificate of Registration

Applications which have fulfilled all requirements and have been finally accepted by the Registrar for registration were issued

Improving and making available plant genetic resources for the development of new plant varieties.

To realize agricultural development in the country the protection of plant breeders’ rights should be enhanced for investment for research and development both in public & private sector for the development of new plant varieties.

To facilitate the growth of seed industry in the country which will ensure the availability of high quality seeds and planting material to the farmers.

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