

Protection of Plant Varieties and Farmer's Rights Act

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PPVFR Act was enacted by the Govt. of India following a Sui generis system for protection of plant varieties in compliance with the TRIPS (Trade Related Intellectual Property Rights) agreement of 1995 in order to provide for the establishment of an effective system for Protection of plant varieties and rights of farmers and plant breeders. To encourage the development of new varieties of plants and to accelerate agricultural development, it is necessary to protect plants breeders' rights to stimulate investment for research and development for the development of new plant varieties. Moreover, it has been considered necessary 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 the new plant varieties.

Such protection is likely to facilitate the growth of the seed industry which will ensure the availability of high-quality seeds and planting material to the farmers. India having ratified the Agreement on Trade Related Aspects of the Intellectual Property Rights has to make provision for giving effect to Agreement. To give effect to the aforesaid objectives the Protection of Plant Varieties and Farmers' Rights Act, 2001 has been enacted in India.

Objectives

- 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.

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

For the purposes of this Act, Protection of Plant Varieties and Farmers' Rights Authority has been established by the Department of Agriculture and Cooperation, Ministry of Agriculture on 11th November, 2005 at New Delhi.

General functions of the PPVFR Authority

- Registration of new plant varieties, essentially derived varieties (EDV), extant varieties;
- Developing DUS (Distinctiveness, Uniformity and Stability) test guidelines for new plant species;
- Developing characterization and documentation of varieties registered
- Compulsory cataloguing facilities for all variety of plants

- Documentation, indexing and cataloguing of farmers' varieties
- Recognizing and rewarding farmers, community of farmers, particularly tribal and rural community engaged in conservation, improvement, preservation of plant genetic resources of economic plants and their wild relatives
- Maintenance of the National Register of plant Varieties and
- Maintenance of National Gene Bank

Rights under the Act

1. **Breeder's 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. **Researcher's 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. Farmer's Rights

- 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;
- Farmers variety can also be registered as an extant variety;
- 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;

- Farmers are eligible for recognition and rewards for the conservation of Plant Genetic Resources of land races and wild relatives of economic plants and their improvement through selection and preservation from the Gene Fund, provided that the material so selected and preserved has been used as donors of genes in varieties registrable under this Act;
- There is also a provision for compensation to the farmers for 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.

Who can apply for the protection of a variety

- Any person claiming to be the breeder of a variety
- Any successor of the breeder of a variety
- Any person being the assignee of a variety
- Any farmer, group of farmers or community of farmers claiming to be the breeder of that variety
- Any persons authorized in the prescribed manner by the persons mentioned above
- Any university or a public funded institution claiming to be the breeder of the variety

What are all the Varieties that can be registered

- Novel variety
- Extant variety
- Farmers variety
- Essentially Derived Variety

Registration fees

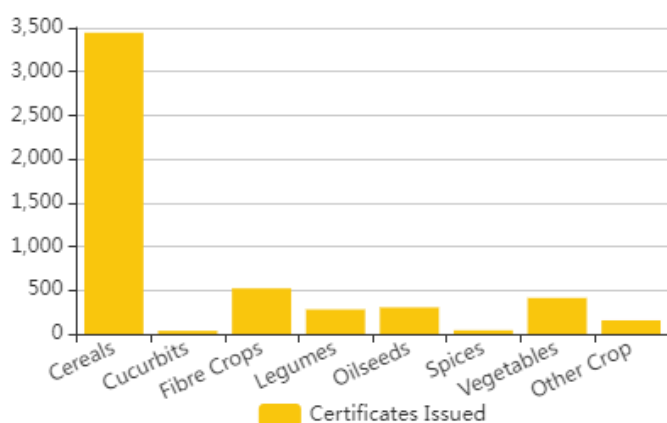
Type of variety	Fees for Registration
Essentially Derived Varieties	Individual Rs. 7000/- Educational Rs. 10000/- Commercial Rs. 50000/-
Extant variety notified under section 5 of Seeds Act, 1966	Rs. 2000/-

New Variety	Individual Rs. 7000/- Educational Rs. 10000/- Commercial Rs. 50000/-
Extant variety about which there is common knowledge	Individual Rs. 7000/- Educational Rs. 10000/- Commercial Rs. 50000/-
Farmers' Variety	No fee

No. of Certificates issued by PPVFR Authority as on June, 2023 - 5198 No.

Sl. No.	Crop Group	No. of certificates
1.	Cereals	3445
2.	Fibre crops	521
3.	Vegetables	448
4.	Oilseeds	304
5.	Legumes	280
6.	Fruits	80
7.	Sugar crops	53
8.	Spices	42
9.	Flowers	11
10.	Trees	8
11.	Plantation crops	6

Crop group wise

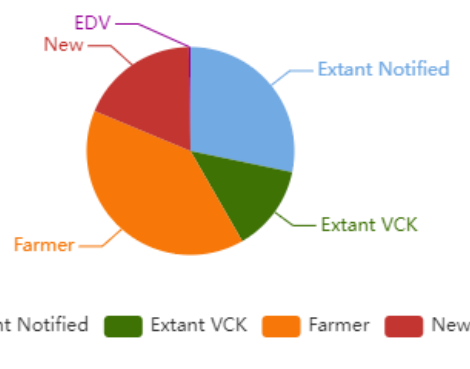


DUS Testing

The variety to be registered should satisfy the following criteria

- Distinctness (Clearly different)
- Uniformity (homogenous)
- Stable (Unchanged)

Category wise



Year wise



Salient features of the PPVFR Act

The owner of the protected variety has the following rights

- Produce the protected variety
- Sell the variety
- Market the variety
- Distribute the variety
- Import the variety
- Export the variety

In case the variety being an Essentially Derived Variety (EDV), where the EDV derived from a protected variety, an authorization is required from the breeder of the initial variety

Researcher's Rights (Sec 30)

- Use of the variety for research and experimental purpose
- Use of the variety as an initial variety for creation of new varieties

Whereas, Repeated use of the variety for commercial production of a new variety is not allowed without the authorization of the breeder of the registered variety

Farmer's Right - Essential component of IPR

The PPVFR Act allows the registration of traditional varieties or farmers' varieties. Registration of the variety grants PBR on the variety, which allows exclusive legal right to the PBR holding farmers to produce and market the seeds. However, in the case of a traditional variety, it is important to involve all communities associated in its conservation, if there is no clear evidence to establish an exclusive role for the origin of the said variety. The farmers need not have to pay any fee either to register their varieties or to renew these registrations. This is a major incentive to the innovative breeders among farmers. On the contrary, professional breeders and public research institutions are required to pay registration and renewal fees.

In recognition of the important role farmers have been playing for the conservation of varietal wealth of crop plants, the PPVFR Act has a provision to reward and recognize individual farmers or farming and tribal communities for such contribution. According to the Act, a National Gene Fund is to be created to facilitate reward and recognition to eligible farmers and communities.

Benefit Sharing

The Act provides for equitable sharing of the benefit earned from the new variety with farming or tribal communities that had contributed varieties used as parents.

The benefit share is disbursed from the National Gene fund to the eligible individual, community or institution. Therefore for claiming eligible benefit share, the farming communities should have

- Timely information on the varieties being registered under the Act
- Timely understanding on the notification on such varieties inviting claims for benefit share
- Capability to understand the disclosed characteristics of the new variety those of parental varieties

Compensation for undisclosed use of traditional varieties

If the breeder uses Farmers' variety as source material to develop new variety, he has to share his royalty with the community.

Or, in case where it is established that the breeder has not disclosed the source of varieties belonging to a particular community, compensation can be granted through the National Gene Fund.

Compensation for the loss suffered from a Registered variety

- The act has the provision to check unfair marketing practices by the breeders and the seed sellers
- The act requires that the seeds be sold with a declaration on its agronomic performance and the cultivation conditions ensuring their performance.

The Act tries to promote the availability of high-quality seed and planting materials to the farmers by ensuring the adequate supply of the seeds of the registered variety at reasonable cost. According to the Act, when the PBR holder does not satisfy this requirement three years after the

registration of the variety, farmers have the right to take the matter of non-availability of the seed, its poor supply or its high price to the PPVFR Authority.

A Compulsory Licensing System

Under the Section 47 of this Act, if the seeds of the protected variety are not available after 3 years of registration in adequate quantity, and at reasonable price, the Authority may grant license to a third party to

- Undertake production
- Distribution and sale of the seed at reasonable royalty

By this PPVFR Act, farmers' varieties can also be registered under the Act if the application contains a declaration stating that genetic or parental material acquired for breeding has been lawfully acquired.

There is no concept of Farmers' rights in the UPOV system particularly under the 1991 Act. In UPOV, rights are granted only to the breeder, which in today's context means the seed companies. The PPVFR Act provides a balance between the breeder's rights and farmers' right, the provisions for compulsory licensing, researcher's rights and exclusion of certain varieties from registration. About 75% of the Indian population involves in agriculture. The literacy percentage of rural population is very low. Considering the status of education of the farmers, the Section 42 of the Act also provides safeguard against innocent infringement. The farmer who unknowingly violates the breeders' rights shall not be punished if he can prove that he is innocent about the Act.

The PPVFR Authority in consultation with Government of India, has established the following awards annually to the farmers engaged in the conservation of the Genetic Resources of the landraces and wild relatives of economics plants and their improvement through selection and preservation provided the material so selected has been used as a donor of genes in respect of varieties registerable under the Act.

a. Plant Genome Savior Community Awards

Five Plant Genome Saviour Community Awards of Rs 10 Lakh with citation and memento

b. Plant Genome Savior Farmer Reward

Ten Plant Genome Saviour Farmer Rewards of Rs 1.5 Lakh each with citation & memento

c. Plant Genome Savior Farmer Recognition.

Twenty Plant Genome Saviour farmer Recognitions of Rs 1 lakh each with citation and memento

The PPVFR Authority now registers 190 crop species covering cereals, millets, pulses, oilseeds, sugar crops, fibre crops, spices, fruits, vegetables, medicinal and aromatic crops. The time limit for the registration of farmer's varieties in 17 crop species viz., Rice, Bread wheat, maize, sorghum, pearl millet, chick pea, pigeon pea, green gram, black gram, lentil, field pea, kidney bean, cotton, jute, closes by 1st July 2024 and sugarcane, jute, turmeric closes by 29th July 2024. Hence maximum number of farmers varieties need to be registered for protecting the valuable genetic resources.

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