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# PLANT VARIETY PROTECTION

**Gazette and Newsletter  
of the  
International Union for the Protection of New Varieties of Plants (UPOV)**

No. 36

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GAZETTE
RATIFICATION OF THE REVISED ACT OF 1978 OF THE UPOV CONVENTION

**United Kingdom**

The Government of the United Kingdom of Great Britain and Northern Ireland deposited on August 24, 1983, its instrument of ratification of the Geneva Act of October 23, 1978, of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972.

The Act will enter into force with respect to the United Kingdom one month after the date on which the United Kingdom deposited its instrument of ratification, i.e. on September 24, 1983.

It is recalled that the United Kingdom became a member of UPOV on August 10, 1968, by ratifying the International Convention for the Protection of New Varieties of Plants of December 2, 1961.

EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES AND EXTENSION OF THE SCOPE OF PROTECTION
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**Belgium**

By virtue of the Royal Decree of February 10, 1983, Fixing the Plant Species for Which a New Plant Variety Certificate may be Issued and Fixing the Duration of Protection for Those Species (Moniteur belge - Belgisch Staatsblad of April 19, 1983), protection was extended to the following with effect from April 20, 1983 (the Latin and French common names appear in the Decree, whereas the English and German common names have been added, without guarantee of concordance, by the Office of the Union).

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Agrostis canina L.	Velvet Bent	Agrostide des bruyères, Agrostide des chiens	Heidestraussgras, Hundsstraussgras
Agrostis gigantea Roth	Red Top (Black Bent)	Agrostide géante	Weisses Straussgras

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Agrostis stolonifera</i> L.	Creeping Bent	Agrostide stolonifère	Flechtstraussgras
<i>Agrostis tenuis</i> Sibth.	Brown Top, Common Bent	Agrostide commune	Rotes Straussgras
<i>Allium cepa</i> L.	Onion	Oignon	Zwiebel
<i>Apium graveolens</i> L.	Celery, Celeriac	Céleri, Céleri-rave	Blattsellerie, Knollensellerie
Begonia-Elatior-Hybridi	Elatior Begonia	Bégonia elatior	Elatior-Begonie
Begonia X tuberhybrida Voss	Tuberous Begonia	Bégonia tubéreux	Knollenbegonie
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef.			
- var. <i>gongylodes</i> L.	Kohlrabi	Chou-rave	Kohlrabi
- var. <i>sabellica</i> L.	Curly Kale	Chou frisé	Grünkohl
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>capitata</i> L.			
- f. <i>alba</i> DC.	White Cabbage	Chou cabus	Weisskohl
- f. <i>rubra</i> (L.) Thell.	Red Cabbage	Chou rouge	Rotkohl
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>sabauda</i>	Savoy Cabbage	Chou de Milan	Wirsing
<i>Cichorium endivia</i> L.	Endive	Chicorée frisée, Scarole	Winterendivie
<i>Cucumis sativus</i> L.	Cucumber, Gherkin	Concombre, Cornichon	Salatgurke, Essiggurke
<i>Dactylis glomerata</i> L.	Cocksfoot, Orchard Grass	Dactyle	Knaulgras
<i>Daucus carota</i> L.	Carrot	Carotte	Möhre
<i>Gerbera</i> Cass.	Gerbera	Gerbera	Gerbera
<i>Gladiolus</i> L.	Gladiolus	Glaïeul	Gladiole
<i>Iris</i> L.	Iris	Iris	Iris
<i>Lilium</i> L.	Lily	Lis	Lilie
Orchidaceae Juss.	Orchids	Orchidées	Orchideen
<i>Raphanus sativus</i> L. var. <i>sativus</i>	Radish	Radis de tous les mois	Radieschen
<i>Salix</i> L.	Willow	Saule	Weide
<i>Spinacia oleracea</i> L.	Spinach	Epinard	Spinat
<i>Tulipa</i> L.	Tulip	Tulipe	Tulpe

The availability of protection to foreigners is governed by Article 9 of the Law on the Protection of New Plant Varieties of May 20, 1975, which reads as follows:

"(1) If the variety has been bred outside Belgium, the new plant variety certificate shall be granted when Belgium is bound to do so under the [UPOV] Convention or any other international Convention.

"(2) If the variety has been bred outside Belgium and paragraph (1) is not applicable, the new plant variety certificate shall be granted when the State in which it was bred grants equivalent protection to similar new varieties bred in Belgium.

"(3) If the variety has been bred outside Belgium without there being the obligation referred to in paragraph (1) or the reciprocity referred to in paragraph (2), the Minister [with responsibility for agriculture] may, on the advice of the Service [for the Protection of New Plant Varieties], and after the [Scientific] Council has been heard, specify the conditions for the grant of a new plant variety certificate in respect of a variety bred outside Belgium which he considers to be beneficial to Belgian agriculture, horticulture or forestry. The Minister may impose limitations that are not provided for in the Convention."

Pursuant to Article 49 of the said Law, applications that relate to varieties of recent creation and are to benefit from the transitional limitation of the requirement of novelty laid down in paragraph (2) of that Article must be filed within the year following the extension of protection to the taxon concerned, i.e. before April 20, 1984.

As regards the list of the taxa covered by plant variety protection legislation, the duration of protection and the scope of protection, reference is made to the text of the Royal Decree of February 10, 1983, Fixing the Plant Species for Which a New Plant Variety Certificate may be Issued and Fixing the Duration of Protection for Those Species published in the "Legislation" subsection of the "Newsletter" section, starting on page 25.

Concerning the scope of protection, Article 21 of the Law of May 20, 1975, on the Protection of New Plant Varieties provides as follows:

"The owner of a New Plant Variety Certificate shall have the exclusive right to render the production for commercial purposes and the commercialization of reproductive or vegetative propagating material for the respective variety subject to his prior authorization and to conditions specified by him. He may grant licenses.

"Vegetative propagating material shall be deemed to include whole plants.

"The right of the owner shall extend to ornamental plants or parts thereof that are normally marketed for purposes other than propagation when they are used commercially as propagating material in the production of ornamental plants or cut flowers."

The above-mentioned Decree amplifies that provision. In the case of seed-reproduced agricultural crops and of vegetables, the rights related so far to any type of seed, whether certified or not, and to plants or parts of plants marketed for planting purposes. They have been extended by virtue of that Decree to any part of the plant used as propagating material. In the case of potato, the rights related so far to any type of planting material, whether certified or not. They have been similarly extended to any part of the plant used as propagating material.

EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES
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**Federal Republic of Germany**

By virtue of the Fifth Order, of July 27, 1983 (Bundesgesetzblatt, Part I, of August 4, 1983, page 1055), Amending the Order Concerning the List of Species under the Plant Variety Protection Law, protection was extended to the following with effect from August 5, 1983 (the Latin and German names appear in the Order, whereas the English and French common names have been added, without guarantee of concordance, by the Office of the Union).

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Aeschynanthus Jack	Aeschynanthus	Aeschynanthus	Aeschynanthus
Begonia-Knollenbegonien-Hybriden	Tuberous Begonia	Bégonia tubéreux	Knollenbegonie
Erica L.	Heath	Bruyère	Erika
Impatiens-Neu-Guinea-Hybriden	New Guinea Impatiens	Impatiens de Nouvelle-Guinée	Neu-Guinea-Impatiens
X Odontioda hort.	Odontioda	Odontioda	Odontioda
Odontoglossum H.B.K.	Odontoglossum	Odontoglossum	Odontoglossum
Pelargonium-Grandiflorum-Hybriden	Show and Fancy Pelargoniums	Pelargonium des fleuristes	Edelpelargonie
Saintpaulia H. Wendl.	Saintpaulia	Saintpaulia	Usambaraveilchen

The entries Erica L. and Saintpaulia H. Wendl. replace the former entries Erica gracilis Salisb. and Saintpaulia ionantha H. Wendl., respectively.

Pursuant to Article 18 of the Plant Variety Protection Law, protection extends, in the case of the above mentioned taxa, to the end of the twentieth year following the grant.

As regards the availability of protection to foreigners, reference is made to the item "Federal Republic of Germany: New Notice Concerning Reciprocity," published on page 41 of Plant Variety Protection No. 34.

Pursuant to the second sentence of Article 2(3) of the Law, applications that relate to recently created varieties of the above-mentioned taxa and are to benefit from the transitional limitation of the requirement of novelty must be filed within the six months following inclusion of the taxon concerned in the List of Species under the Plant Variety Protection Law, i.e. before February 5, 1983.

The list of taxa covered by plant variety protection legislation is given hereunder with the same proviso as for the above list.

List of Taxa Covered by Plant Variety Protection Legislation  
in the Federal Republic of Germany

Liste des taxons couverts par la législation sur la protection des  
obtentions végétales en République fédérale d'Allemagne

Liste der taxonomischen Einheiten, die in der Bundesrepublik  
Deutschland der Sortenschutzgesetzgebung unterliegen

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Abies Mill.	Abies	Sapin	Tanne
Achimenes-Hybriden	Achimenes	Achimenes	Achimenes
Aeschynanthus Jack	Aeschynanthus	Aeschynanthus	Aeschynanthus
Aechmea Ruiz et Pav.	Aechmea	Aechmea	Aechmea
Agrostis L.	Bentgrass	Agrostis, Agrostide	Straussgras
Allium cepa L.	Onion	Oignon	Zwiebel
Allium porrum L.	Leek	Poireau	Porree
Allium schoenoprasum L.	Chives	Ciboulette, Civette	Schnittlauch

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Alopecurus pratensis</i> L.	Meadow Foxtail	Vulpin des prés	Wiesenfuchsschwanz
Alstroemeria-Hybriden	Alstroemeria, Herb Lily	Alstroèmère, Lis des Incas	Inkalilie
<i>Anthurium</i> Schott	Anthurium, Tail Flower	Anthurium	Flamingoblume
<i>Apium graveolens</i> L.	Celery, Celeriac	Céleri, Céleri-rave	Sellerie
<i>Arrhenatherum elatius</i> (L.) P. Beauv. ex J. et C. Presl	Tall Oatgrass, False Oatgrass	Fromental, Avoine élevée	Glatthafer
<i>Asparagus officinalis</i> L.	Asparagus	Asperge	Spargel
<i>Avena nuda</i> L.	Naked Oats	Avoine nue	Nackthafer
<i>Avena sativa</i> L.	Oats	Avoine	Hafer
Begonia-Elatior-Hybriden	Elatior Begonia	Bégonia elatior	Elatior-Begonie
Begonia-Knollenbegonien-Hybriden	Tuberous Begonia	Bégonia tubéreux	Knollenbegonie
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>alba</i> DC.	Fodder Beet	Betterave fourragère	Runkelrübe
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>altissima</i> Doell	Sugar Beet	Betterave sucrière	Zuckerrübe
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>conditiva</i> Alef.	Garden Beet, Beetroot	Betterave rouge, Betterave potagère	Rote Rübe
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>vulgaris</i>	Mangel, Leaf Beet, Swiss Chard	Bette commune, Poirée	Mangold
<i>Brassica juncea</i> (L.) Czern. et Coss. in Czern.	Brown Mustard	Moutarde brune	Sareptasenf
<i>Brassica napus</i> L. emend. Metzger var. <i>napobrassica</i> (L.) Rchb.	Swede	Chou-navet, Rutabaga	Kohlrübe
<i>Brassica napus</i> L. ssp. <i>oleifera</i> (Metzg.) Sinsk.	Swede Rape, incl. Oilseed Rape	Colza	Raps
<i>Brassica nigra</i> (L.) W. Koch	Black Mustard	Moutarde noire	Schwarzer Senf
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>gongylodes</i> L.	Kohlrabi	Chou-rave	Kohlrabi
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>sabellica</i> L.	Curly Kale	Chou frisé	Grünkohl
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>viridis</i> L. + var. <i>medullosa</i> Thell.	Fodder Kale	Chou fourrager	Futterkohl
<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef. var. <i>botrytis</i>	Cauliflower	Chou-fleur	Blumenkohl
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>capitata</i>	Cabbage	Chou pommé	Rotkohl, Weisskohl
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>sabauda</i> L.	Savoy Cabbage	Chou de Milan	Wirsing
<i>Brassica oleracea</i> L. convar. <i>oleracea</i> var. <i>gemmifera</i> DC.	Brussels Sprouts	Chou de Bruxelles	Rosenkohl

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Brassica rapa</i> L.	Turnip, Turnip Rape	Navet, Navette	Herbstrübe, Mai- rübe, Rübsen
<i>Bromus inermis</i> Leyss.	Smooth Brome (Awnless Brome)	Brome inerme	Wehrlose Trespe
<i>Calluna vulgaris</i> (L.) Hull	Heather, Ling	Callune	Besenheide
<i>Cannabis sativa</i> L.	Hemp	Chanvre	Hanf
<i>Capsicum annum</i> L.	Sweet Pepper, Capsicum, Chili	Poivron, Piment	Paprika
<i>Cattleya</i> Lindl.	Cattleya	Cattleya	Cattleya
<i>Chamaecyparis</i> Spach	Chamaecyparis	Chamaecyparis	Scheinzypresse
<i>Chrysanthemum frutescens</i> L.	Marguerite, Paris Daisy	Marguerite	Strauchmargerite
Chrysanthemum-Indicum-Hybriden	Chrysanthemum	Chrysanthème	Chrysantheme
<i>Cichorium endivia</i> L.	Endive	Chicorée frisée, Scarole	Winterendivie
<i>Cichorium intybus</i> L.	Chicory	Chicorée, Endive	Wurzelzichorie, Salatzichorie
<i>Cotoneaster</i> Medik.	Cotoneaster	Cotoneaster	Cotoneaster
<i>Cucumis sativus</i> L.	Cucumber, Gherkin	Concombre, Cornichon	Gurke
<i>Cucurbita maxima</i> Duch.	Pumpkin	Potiron, Giraumon	Riesenkürbis
<i>Cucurbita pepo</i> L.	Pumpkin, Marrow, Courgette, Vegetable Marrow	Courge, Pâtisson, Citrouille	Gartenkürbis, Ölkürbis
<i>Cydonia</i> Mill.	Quince	Cognassier	Quitte
<i>Cymbidium</i> Sw.	Cymbidium	Cymbidium	Cymbidie
<i>Cynosurus cristatus</i> L.	Crested Dog's-tail	Crételle	Kammgras
<i>Dactylis glomerata</i> L.	Cocksfoot, Orchard Grass	Dactyle	Knaulgras
<i>Dahlia</i> Cav.	Dahlia	Dahlia	Dahlie
<i>Daucus carota</i> L.	Carrot	Carotte	Möhre
Dianthus-Caryophyllus-Hybriden	Carnation	Oeillet	Nelke
X <i>Doritaenopsis</i> hort.	Doritaenopsis	Doritaenopsis	Doritaenopsis
<i>Erica</i> L.	Heath	Bruyère	Erika
<i>Euphorbia fulgens</i> Karw.	<i>Euphorbia fulgens</i>	<i>Euphorbia fulgens</i>	Korallenranke
<i>Euphorbia lathyris</i> L.	Caper Spurge	Euphorbe épurge	Kreuzblättrige Wolfsmilch
<i>Euphorbia-Milli</i> -Hybriden	Christ's Thorn, Crown of Thorns	Epine du Christ	Christusdorn
<i>Euphorbia pulcherrima</i> Willd. ex Klotzsch	Poinsettia	Poinsettia	Poinsettie (Weih- nachtsstern)



<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Fagopyrum esculentum Moench	Buckwheat	Sarrasin, Blé noir	Buchweizen
Festuca L.	Fescue	Fétuque	Schwingel
Fragaria L.	Strawberry	Fraisier	Erdbeere
Freesia-Hybriden	Freesia	Freesia	Freesie
Gerbera L.	Gerbera	Gerbera	Gerbera
Glycine max (L.) Merrill	Soya Bean, Soybean	Soja	Sojabohne
Helianthus annuus L.	Common Sunflower	Tournesol, Soleil	Sonnenblume
Helianthus tuberosus L.	Jerusalem Artichoke	Topinambour	Topinambur
Hordeum vulgare L. sensu lato	Barley	Orge	Gerste
Humulus lupulus L.	Hop	Houblon	Hopfen
Hydrangea L.	Hydrangea	Hortensia	Hortensie
Ilex L.	Holly	Houx	Stechpalme
Impatiens-Neu-Guinea-Hybriden	New Guinea Impatiens	Impatiente de Nouvelle-Guinée	Neu-Guinea-Impatiens
Juniperus L.	Juniper	Genévrier	Wacholder
Kalanchoë Adans.	Kalanchoë	Kalanchoë	Kalanchoë
Lactuca sativa L.	Lettuce	Laitue	Salat
X Laeliocattleya Rolfe	Laeliocattleya	Laeliocattleya	Laeliocattleya
Larix Mill.	Larch	Mélèze	Lärche
Lathyrus cicera L.	Dwarf Chickling Vetch	Gesse chiche, Jarrosse	Rotblühende Platterbse
Lathyrus sativus L.	Grass Pea Vine	Gesse cultivée	Gewöhnliche Platterbse
Lathyrus tingitanus L.	Tangier Pea	Gesse du Maroc	Purpurblühende Platterbse
Lens culinaris Med.	Lentil	Lentille	Linse
Linum usitatissimum L.	Flax, Linseed	Lin	Lein
Lolium L.	Ryegrass	Ray-grass	Weidelgras
Lotus corniculatus L.	Bird's Foot Trefoil	Lotier corniculé	Hornschotenklee
Lotus uliginosus Schkuhr	Major Bird's Foot Trefoil	Lotier velu, Lotier des marais	Sumpfschotenklee
Lupinus albus L.	White Lupin	Lupin blanc	Weisslupine
Lupinus angustifolius L.	Blue Lupin	Lupin bleu	Blaue Lupine
Lupinus luteus L.	Yellow Lupin	Lupin jaune	Gelbe Lupine
Lycopersicon lycopersicum (L.) Karst. ex Farw.	Tomato	Tomate	Tomate
Malus Mill.	Apple	Pommier	Apfel

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Medicago falcata</i> L.	Yellow Lucerne (Sickle Medick), Variegated Lucerne	Luzerne (en faucille)	Sichelluzerne
<i>Medicago lupulina</i> L.	Black Medick, Yellow Trefoil	Luzerne lupuline, Minette	Gelbklee (Hopfenklee)
<i>Medicago sativa</i> L.	Lucerne, Alfalfa	Luzerne (cultivée)	Blaue Luzerne
<i>Medicago X varia</i> Martyn	(Hybrid) Lucerne	Luzerne hybride	Bastardluzerne
<i>Nicotiana rustica</i> L.	Syrian Tobacco	Nicotiane rustique	Bauerntabak
<i>Nicotiana tabacum</i> L.	Tobacco (common)	Tabac	Tabak
<i>X Odontioda hort.</i>	Odontioda	Odontioda	Odontioda
<i>Odontoglossum</i> H.B.K.	Odontoglossum	Odontoglossum	Odontoglossum
<i>Onobrychis viciifolia</i> Scop.	Sainfoin	Sainfoin, Esparcette	Esparcette
<i>Ornithopus sativus</i> Brot.	Serradella	Serradelle	Serradella
<i>Panicum miliaceum</i> L.	Common Millet	Millet commun, Panic millet, Panic faux millet	Rispenhirse
<i>Papaver somniferum</i> L.	Opium Poppy	Oeillette, Pavot	Mohn
<i>Paphiopedilum</i> Pfitz.	Lady's Slipper	Sabot de Vénus	Venusschuh
<i>Pelargonium-Grandiflorum- Hybriden</i>	Show and Fancy Pelargoniums	<i>Pelargonium</i> des fleuristes	Edelpelargonie
<i>Pelargonium-Peltatum-Hybriden</i>	Ivy-leaved Pelargonium	<i>Géranium-lierre</i>	Efeupelargonie
<i>Pelargonium-Zonale-Hybriden</i>	Zonal Pelargonium	<i>Géranium, Pelar- gonium zonale</i>	Zonalpelargonie
<i>Pelargonium Peltatum X Pelar- gonium Zonale-Hybriden</i>	-	-	Halbpeltaten
<i>Petroselinum crispum</i> (Mill.) Nym. ex A.W. Hill	Parsley	Persil	Petersilie
<i>Phacelia tanacetifolia</i> Benth.	Scorpion Weed	Phacélie à feuilles de tanaisie	Phazellie
<i>Phalaenopsis</i> Bl.	Moth Orchid	Orchidée papillon	Phalaenopsis
<i>Phalaris arundinacea</i> L.	Reed Canary Grass	Alpiste roseau	Rohrglanzgras
<i>Phaseolus coccineus</i> L.	Runner Bean, Kidney Bean	Haricot d'Espagne	Prunkbohne
<i>Phaseolus vulgaris</i> L.	Dwarf French Bean, Climbing French Bean	Haricot nain, Haricot à rames	Buschbohne, Stangenbohne
<i>Phleum bertolonii</i> DC.	Timothy	Fléole diploïde, Petite fléole	Zwiebellieschgras
<i>Phleum pratense</i> L.	Timothy	Fléole des prés	Wiesenlieschgras
<i>Picea</i> A. Dietr.	Spruce	Epicéa	Fichte
<i>Pinus</i> L.	Pine	Pin	Kiefer

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Pisum sativum</i> L.	Pea	Pois	Erbse
<i>Poa</i> L.	Meadow-grass	Pâturin	Rispengras
<i>Populus</i> L.	Poplar	Peuplier	Pappel
<i>Potentilla fruticosa</i> L.	Shrubby Cinquefoil	Potentille ligneuse	Strauch- Fingerkraut
<i>Prunus</i> L.	Cherry, Plum, Quetsch, except ornamental vari- eties	Cerisier, Prunier Quetsche, sauf variétés ornemen- tales	Kirsche, Pflaume, Zwetschge, ausser Ziersorten
<i>Pseudotsuga</i> Carr.	Douglas Fir	Sapin de Douglas	Douglasie
<i>Pyracantha</i> M.J. Roem.	Firethorn	Pyracantha, Buisson ardent	Feuerdorn
<i>Pyrus</i> L.	Pear, except ornamental vari- eties	Poirier, sauf variétés ornemen- tales	Birne, ausser Ziersorten
<i>Raphanus sativus</i> L. var. <i>niger</i> (Mill.) S. Kerner	Black Radish	Radis d'été, d'automne et d'hiver	Rettich
<i>Raphanus sativus</i> L. var. <i>olei- formis</i> Pers.	Fodder Radish	Radis oléifère, Radis chinois	Ölrettich
<i>Raphanus sativus</i> L. var. <i>sativus</i>	Radish	Radis de tous les mois	Radieschen
<i>Rhipsalidopsis</i> Britt. et Rose	Easter Cactus	Cactus de Pâques	Osterkaktus
<i>Rhododendron</i> L.	Rhododendron, Azalea	Rhododendron, Azalée	Rhododendron, Azalee
<i>Ribes</i> L.	Currants, Goose- berry, except ornamental vari- eties	Cassis, Groseil- liers, sauf variétés ornemen- tales	Johannisbeere, Stachelbeere, ausser Ziersorten
<i>Rosa</i> L.	Rose	Rosier	Rose
<i>Rubus</i> L.	Bramble, Raspberry, except ornamental varieties	Ronce, Framboisier, sauf variétés ornementales	Brombeere, Himbeere, ausser Ziersorten
<i>Saintpaulia</i> H. Wendl.	Saintpaulia	Saintpaulia	Usambaraveilchen
<i>Salix</i> L.	Willow	Saule	Weide
<i>Schlumbergera</i> Lem.	Christmas Cactus	Cactus de Noël	Weihnachtskaktus
<i>Scorzonera hispanica</i> L.	Black Salsify	Scorsonère, Salsifis noir	Schwarzwurzel
<i>Secale cereale</i> L.	Rye	Seigle	Roggen
<i>Setaria italica</i> (L.) Beauv.	Foxtail Millet, Italian Millet	Millet d'Italie, Millet des oiseaux	Kolbenhirse
<i>Sinapis alba</i> L.	White Mustard	Moutarde blanche	Weisser Senf
<i>Solanum tuberosum</i> L.	Potato	Pomme de terre	Kartoffel
<i>Sorghum dochna</i> (Forssk.) Snowden	Sweet Sorghum, Broom Corn	Sorgho sucré, Sorgho à balai	Besenhirse, Zuckerhirse

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Spinacia oleracea</i> L.	Spinach	Epinard	Spinat
<i>Streptocarpus</i> Lindl.	Streptocarpus	Streptocarpus	Drehfrucht
<i>Thuja</i> L.	Thuja	Thuja	Lebensbaum
<i>Trifolium alexandrinum</i> L.	Berseem Clover	Trèfle d'Alexandrie	Alexandriner Klee
<i>Trifolium hybridum</i> L.	Alsike Clover	Trèfle hybride	Schwedenklee
<i>Trifolium incarnatum</i> L.	Crimson Clover	Trèfle incarnat	Inkarnatklee
<i>Trifolium pratense</i> L.	Red Clover	Trèfle violet	Rotklee
<i>Trifolium repens</i> L.	White Clover	Trèfle blanc	Weissklee
<i>Trifolium resupinatum</i> L.	Persian Clover	Trèfle de Perse	Persischer Klee
<i>Trifolium subterraneum</i> L.	Subterranean Clover	Trèfle souterrain	Bodenfrüchtiger Klee
<i>Trisetum flavescens</i> (L.) Beauv.	Golden Oatgrass	Avoine jaunâtre	Goldhafer
X <i>Triticale</i>	Triticale	Triticale	Triticale
<i>Triticum aestivum</i> L. emend. Fiori et Paol.	Wheat, Soft Wheat, Bread Wheat	Blé tendre, Froment	Weichweizen
<i>Triticum durum</i> Desf.	Durum Wheat, Macaroni Wheat, Hard Wheat	Blé dur	Hartweizen
<i>Triticum spelta</i> L.	Spelt	Epeautre	Spelz
<i>Ulmus</i> L.	Elm	Orme	Ulme
<i>Vaccinium-Corymbosum-Hybriden</i>	Blueberry	Myrtille	Kulturheidelbeere
<i>Vaccinium vitis-idaea</i> L.	Cowberry, Mountain Cranberry	Airelle rouge	Preiselbeere
<i>Valerianella locusta</i> (L.) Laterrade	Cornsalad, Lamb's Lettuce	Mâche, Doucette	Feldsalat
<i>Vicia articulata</i> Hornem.	One-flowered Vetch	Vesce	Wicklinse
<i>Vicia faba</i> L.	Field Bean, Tick Bean, Broad Bean, Horse Bean	Féverole, Fève	Ackerbohne, Dicke Bohne (Puffbohne)
<i>Vicia pannonica</i> Crantz	Hungarian Vetch	Vesce de Pannonie	Pannonische Wicke
<i>Vicia sativa</i> L.	Common Vetch	Vesce commune	Saatwicke
<i>Vicia sepium</i> L.	Bush Vetch, Hedge Vetch	Vesce des haies	Zaunwicke
<i>Vicia villosa</i> Roth	Hairy Vetch	Vesce velue	Zottelwicke
<i>Vitis</i> L.	Vine, except ornamental varieties	Vigne, sauf variétés ornementales	Rebe, ausser Ziersorten
<i>Vriesea splendens</i> (Brongn.) Lem.	Vriesea	Vriesea	Vriesea
X <i>Vuykstekeara</i> hort.	Vuykstekeara	Vuykstekeara	Vuykstekeara
<i>Zea mays</i> L.	Maize	Maïs	Mais

### Israel

By virtue of the Plant Breeders' Rights Order (Amendment of Schedule), 5742-1983, of March 10, 1983 (Kovetz Hatakanot 4486, of April 17, 1983), protection was extended to the following (the Latin names appear in the Order, whereas the English, French and German common names have been added, without guarantee of concordance, by the Office of the Union).

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Kalanchoë Adans.	Kalanchoë	Kalanchoë	Kalanchoë
Limonium Mill.	Sea Lavender, Statice	Limonium, Statice	Widerstoss, Meerlavendel
Musa L.	Banana	Bananier	Banane

Pursuant to Section 38 of the Plant Breeders' Rights Law, 5733-1973, the duration of a breeder's right is fifteen years from the date of its registration, except for vines, fruit trees, forest trees and any other perennial plant, for which the duration is eighteen years.

The availability of protection to nationals and foreigners is governed by Sections 3 and 71 of the Plant Breeders' Rights Law, 5733-1973, which read as follows:

#### "Section 3

##### "Breeder's right

"(a) A breeder's right in a variety bred in Israel is capable of registration in the Register of Rights in the name of the breeder\* of the variety upon his application.

"(b) An Israeli national or resident in Israel may apply for registration of a breeder's right in the Register of Rights in respect also of a variety bred outside Israel."

#### "Section 71

##### "Application by non-resident

"(a) Notwithstanding the provision of Section 3(b), the Minister [of Agriculture] may direct that a person who is not an Israeli national or resident may apply for registration of a breeder's right in the Register of Rights in respect of a variety bred outside Israel if-

(1) it is necessary to do so in order to fulfil obligations relating to international agreements between Israel and another State and it appears to the Minister that such State accords reciprocity to Israel in this matter, or

(2) the Minister considers that it is in the public interest to do so."

The list of taxa covered by plant variety protection legislation is given hereunder, starting on page 13, with the same proviso as for the above list.

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\* Pursuant to Section 1, the term "breeder" also applies to the persons taking title from the breeder by operation of law or by assignment or agreement.

List of Taxa Covered by Plant Variety Protection Legislation  
in Israel\*  
Liste des taxons couverts par la législation sur la protection des  
obtentions végétales en Israël\*  
Liste der taxonomischen Einheiten, die in Israel  
der Sortenschutzgesetzgebung unterliegen\*

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Allium cepa L.	Onion	Oignon	Zwiebel
Allium sativum L.	Garlic	Ail	Knoblauch
Alstroemeria L.	Alstroemeria	Alstroèmère, Lis des Incas	Inkalilie,
Amygdalus communis L.	Almond	Amandier	Mandel
Anemone L.	Anemone	Anémone	Anemone, Windröschen
Annona cherimola Mill.; A. squamosa L.	Annona, Cherimoya; Annona, Sugar Apple, Sweet Sop	Chérimolier; Pommier-cannelle	"Cherimoya"; Rahmapfel, Süß- sack, Zuckerapfel
Anthurium Schott	Anthurium, Tail Flower	Anthurium	Schwanzblume
Arachis hypogaea L.	Peanut	Arachide	Erdnuss
Aster L.	Aster	Aster	Sommeraster
Avena sativa L.	Oat	Avoine	Hafer
Begonia L.	Begonia	Bégonia	Begonie
Brassica oleracea L. convar. botrytis (L.) Alef.	Cauliflower	Chou-fleur	Blumenkohl
Capsicum annum L.	Sweet Pepper, Cap- sicum, Chili	Poivron, Piment	Paprika
Carthamus tinctorius L.	Safflower	Carthame, Safran bâtard	Saflor, Färberdistel
Carum carvi L.	Caraway	Carvi, Cumin des prés	Kümmel
Carya illinoensis (Wangenh.) C. Koch	Pecan Nut	Pacancier	Pekan, Pekannuss
Catharanthus roseus (L.) G. Don	Vinca	Catharanthus	Catharanthus
Chrysanthemum L.	Chrysanthemum	Chrysanthème	Chrysantheme
Cicer arietinum L.	Chick-pea	Pois chiche	Kichererbse
Citrullus lanatus (Thunb.) Matsum. et Nakai	Watermelon	Pastèque	Wassermelone

\* This list is based on a translation from the originals in Hebrew published in Reshumot (original list) and in Kovetz Hatakanot (subsequent amendments).

Cette liste est fondée sur une traduction des textes originaux en hébreu publiés dans Reshumot (liste initiale) et dans Kovetz Hatakanot (modifications ultérieures).

Diese Liste stützt sich auf eine Übersetzung der in Reshumot (Originalliste) und in Kovetz Hatakanot (spätere Änderungen) in hebräisch veröffentlichten Originaltexte.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Citrus spec.	Citrus	Agrumes	Zitrus
Cucumis melo L.	Muskmelon	Melon	Melone
Cucumis sativus L.	Cucumber, Gherkin	Concombre, Cornichon	Gurke
Cucurbita pepo L.	Pumpkin, Marrow, Courgette	Courge, Pâtisson, Citrouille	Gartenkürbis, Ölkürbis
Cynara spp.	Artichoke, Cardoon	Artichaut, Cardon	Artischoke, Kardone
Dianthus L.	Carnation	Oeillet	Nelke
Diospyros kaki L. f.	Japanese Persimmon, Kaki	Plaqueminier, Kaki	Kakipflaume
Duboisia leichardtii F. Moell.	Duboisia	Duboisia	Duboisie
Eriobotrya japonica (Thunb.) Lindl.	Loquat	Néflier du Japon	Japanische Mispel, Loquate
Fragaria L.	Strawberry	Fraisier	Erdbeere
Freesia Klatt	Freesia	Freesia	Freesie
Gerbera L.	Gerbera	Gerbera	Gerbera
Gladiolus L.	Gladiolus	Glaïeul	Gladiole
Gossypium L.	Cotton	Cotonnier	Baumwolle
Gypsophila L.	Gyp, Gypsophila, Baby's Breath	Gypsophile	Gipskraut, Schleierkraut
Helianthus annuus L.	Common Sunflower	Tournesol, Soleil	Sonnenblume
Hordeum vulgare L.	Barley	Orge	Gerste
Iris L.	Iris	Iris	Iris, Schwertlilie
Kalanchoë Adans.	Kalanchoë	Kalanchoë	Kalanchoë
Lactuca sativa L.	Lettuce	Laitue	Salat
Leucadendron R. Br.	Leucadendron	Leucadendron	Leucadendron
Leucospermum R. Br.	Leucospermum	Leucospermum	Leucospermum
Liatris Gaertn. ex Schreb.	Liatris, Blazing Star, Gayfeather	Liatris	Prachtscharte
Lilium L.	Lily	Lis	Lilie
Limonium Mill.	Sea Lavender, Statice	Limonium, Statice	Widerstoss, Meerlavendel
Litchi sinensis Sonn.	Litchi	Litchi	Litschi
Lycopersicon esculentum P. Mill.	Tomato	Tomate	Tomate
Malus sylvestris Mill.	Apple	Pommier	Apfel
Mangifera indica L.	Mango	Manguier	Mango
Medicago hispida Gaertn.; M. sativa L.	Alfalfa (Hairy Medick and Lucerne)	Luzerne (hérissée et cultivée)	Schneckenklee (Sichelluzerne und Blaue Luzerne)
Musa L.	Banana	Bananier	Banane

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Narcissus L.	Narcissus, Daffodil, Jonquil	Narcisse, Jonquille	Narzisse
Nicotiana tabacum L.	Tobacco (common)	Tabac	Tabak
Olea europaea L.	Olive	Olivier	Ölbaum, Olive
Orchidaceae Juss.	Orchids	Orchidées	Orchideen
Oryzopsis holciformis (N. B.) Hack.	Oryzopsis	Petit millet, Oryzopsis, Faux-millet	Grannenhirse
Pelargonium L'Hér. ex Ait.	Pelargonium	Pelargonium	Pelargonie
Persea americana Mill.	Avocado	Avocatier	Avocado
Petunia Juss.	Petunia	Pétunia	Petunie
Phalaris tuberosa L.	Hardings Grass	Herbe de Harding, Alpiste tubéreux	Knolliges Glanzgras
Phaseolus vulgaris L.	French Bean	Haricot	Gartenbohne
Prunus armeniaca	Apricot	Abricotier	Aprikose
Prunus domestica L.; P. salicina Lindl.	Plum	Prunier	Pflaume
Prunus persica (L.) Batsch	Peach	Pêcher	Pfirsich
Pyrus communis L.	Pear	Poirier	Birne
Ranunculus L.	Ranunculus, Buttercup	Renoncule	Hahnenfuss
Ricinus communis L.	Castorbean	Ricin	Wunderbaum, Palma Christi
Rosa L.	Rose	Rosier	Rose
Saintpaulia ionantha H. Wendl.	African Violet	Saintpaulia	Usambaraveilchen
Sesamum indicum L.	Sesame	Sésame	Sesam
Solanum melongena L. var. esculentum Nees	Eggplant, Aubergine	Aubergine	Eierfrucht, Aubergine
Solanum tuberosum L.	Potato	Pomme de terre	Kartoffel
Sorghum vulgare Pers.	Sorghum	Sorgho	Mohrenhirse
Trifolium alexandrinum L.; T. berytheum Boiss.; T. repens L. T. subterraneum L.	Clover	Trèfle	Klee
Triticum aestivum L. emend. Fiori et Paol. (T. aestivum L. ssp. vulgare (Vill., Host) Mac Kay); Triticum durum Desf.	Wheat	Blé	Weizen
Vicia faba L.	Horse Bean	Fève	Dicke Bohne
Vicia sativa L.	Common Vetch	Vesce commune	Saatwicke
Vitis vinifera L.	Vine	Vigne	Rebe
Zea mays L.	Maize	Maïs	Mais



AMENDMENT OF LEGAL PROVISIONS
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### United Kingdom

The Plant Varieties and Seeds Act 1964, as amended by the Agriculture (Miscellaneous Provisions) Act 1968, has been further amended by the Plant Varieties Act 1983, which was passed by Parliament on May 9, 1983, and entered into force on July 9, 1983.

The main amendments introduced are as follows.

#### Scope of protection

In the provisions defining the nature of the rights (and in other provisions), the references to selling are supplemented by references to offering or exposing for sale, which include "references to publishing, or causing to be published, any advertisement likely to be understood as conveying that the advertiser has plants or material of that description in his possession for the purpose of sale."

Schedule 3 to the 1964 Act provides for the possibility of extending protection by means of a statutory instrument ("scheme") to the production or propagation of the variety for the purpose of sales of cut blooms, fruit or some other part or product of plants of the variety, as may be specified. As regards the implementation of that provision, reference is made to Plant Variety Protection No. 32, pages 3 to 23. Schedule 3 to the 1964 Act also provided for the possibility of extending protection to sales of parts or products of plants of the variety in so far as they were obtained by the seller from plants of the variety which he had himself produced or propagated. This possibility has been replaced by that of extending protection to the sale or offer or exposure for sale, on the territory on which the Act is applicable, of specified parts or products of the variety in so far as they are obtained from plants produced or propagated outside that territory.

#### Novelty

The novelty provisions have been aligned with Article 6(1)(b)(ii) of the Geneva Act of October 23, 1978, of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, now providing for a six-year period ending on the date of application during which a variety of fruit, forest or ornamental tree or of grapevine, including a rootstock variety, may have been offered for sale or marketed abroad with the consent of the breeder without prejudice to the right to protection.

#### Period of Protection

Pursuant to Section 3(1) to (3) of the Act, the period of protection is to be fixed by scheme, within certain limits, in respect of each genus or species. Under the 1964 Act, the upper limit was 25 years and the lower limit 18 years in the case of fruit trees and their rootstocks, forest and ornamental trees and grapevines, and 15 years in the case of other plants. These limits are now placed at 30, 25 and 20 years, respectively.

The periods prescribed by the schemes made before the entry into force of the Plant Varieties Act 1983 (see Plant Variety Protection No. 32, loc. cit.) have been extended as follows:

- the periods of 25 years are extended to 30 years;
- the periods of 20 years are extended to 25 years;
- the periods of 15 or 18 years are extended to 20 years.

These extensions are also applicable to all plant breeders' rights subsisting at the date of entry into force of the Plant Varieties Act 1983.

Section 3(5) of the 1964 Act provided for the possibility of extending the period of a plant breeder's right beyond the term fixed by scheme if the holder of the right had not been adequately remunerated by the grant of the right for reasons beyond his control. That Section and complementary provisions cease to have effect, except for applications made and extensions granted on applications made before the date of entry into force of the Plant Varieties Act 1983.

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**United States of America**

The Regulations and Rules of Practice Under the Plant Variety Protection Act (Title 7, Chapter I, Subchapter H, Part 180 of the Code of Federal Regulations) have been amended by the Department of Agriculture, with effect from August 5, 1983. The amending text, which is published in the Federal Register, Vol. 48, No. 130, of July 6, 1983, on pages 30939 and 30940, is as follows.

**Section 180.5 (Amended)**

1. Section 180.5(a) is revised to read as follows:

(a) Protection under the Act shall be afforded only as follows:

(1) Nationals and residents of the United States shall be eligible to receive all of the protection under the Act.

(2) Nationals and residents of Member States of the International Union for the Protection of New Varieties of Plants shall be eligible to receive the same protection under the Act as is provided nationals of the United States.

(3) Persons who are not entitled to protection under paragraph (a)(1) or (2) of this section and who are nationals of a foreign state which is not a member of the International Union for the Protection of New Varieties of Plants shall be entitled to only so much of the protection provided under the Act as is afforded by such foreign state to nationals of the United States for the same genus and species under the laws of such foreign state in effect at the time that the application for protection under the Act is filed, except where further protection under the Act must be provided in order to avoid the violation of a treaty to which the United States is a party.

2. Section 180.5 is amended by adding paragraph (b)(4) to read as follows:

(b) ...

(4) For the purpose of determining the extent of reciprocity of the protection to be provided under the Act, persons filing an application for plant variety protection in the United States under the provisions of paragraph (a)(3) of this section shall, upon request<sup>1</sup>, furnish the Plant Variety Protection Office with a copy of the current plant variety protection laws and regulations for the country of which the applicant is a national and an accurate English translation of such laws and regulations.

3. Section 180.5(c) is revised to read as follows:

(c) Application and exhibit forms shall be issued by the Commissioner. (Copies of the forms may be obtained from the Plant Variety Protection Office, Livestock, Meat, Grain, and Seed Division, AMS, USDA, Room 500, National Agricultural Library Building, Beltsville, Maryland 20705.)

4. Section 180.7 paragraph (a)(7) and (b) are revised to read as follows:

(a) [The applicant, by signing a completed application, states in accordance with section 42 of the Plant Variety Protection Act that]

(7) He or his privies have not offered for sale or marketed the variety, with the agreement of the breeder, in a foreign state for longer than 6 years in the case of vines, forest trees, fruit trees, and ornamental trees, including, in each case, their rootstocks, or for longer than 4 years in the case of all other plants.

(b) If the same variety has been offered for sale or marketed with the agreement of either the applicant or his privies, the applicant shall state the names of the countries in which the variety was marketed and give the day, month, and year of first marketing in each country.

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<sup>1</sup> Copies and translations of foreign laws and regulations will be requested only if they are not in the files of the Plant Variety Protection Office. Applicants may learn whether such a request will be made by writing to the address given in paragraph (c) of this section or by calling (301) 344-2518.

## NEWSLETTER

UPOV

## Eleventh Session of the Administrative and Legal Committee, April 1983

The Administrative and Legal Committee held its eleventh session on April 26 and 27, 1983, under the chairmanship of Mr. M. Heuver (Netherlands). All member States except Hungary, Israel and New Zealand were represented. The European Economic Community and the European Free Trade Association were represented by observers.

The main business of the session was as follows:

The Committee gave a final reading to the draft set of UPOV Recommendations on Variety Denominations in preparation for the Meeting with International Organizations to be held on November 9 and 10, 1983. More specifically, it examined the policy to be followed in relation to denominations which are intended to identify, in one way or another, the breeder. It noted that the draft Recommendations did not prevent the use of "distinctive words" in variety denominations (words common to a series of denominations) and that, depending on the circumstances of the particular case, a proposed denomination breaking into the system of denominations which identified or was supposed to identify another breeder would have to be rejected.

The Committee took up the question of the harmonization of procedures for the examination of proposed variety denominations in respect of preexisting denominations. While complete centralization of that examination seemed to be an impossible ideal owing to the language difficulties that would have to be overcome, the Committee felt that it might be worth considering centralization of the computer searching of preexisting denominations liable to make a proposed denomination unsuitable. There did seem to be some interest in such a system, both among States that had computer facilities at their disposal and among those that did not. It considered further that a more promising course of action for the time being was for authorities to be informed on software used and also for basic data to be exchanged. Savings could be made in the constitution and permanent updating of national data bases by making them compatible. These issues will be examined in future sessions of the Committee and also by the Technical Working Party on Automation and Computer Programs.

The Committee examined a number of legal questions arising in relation with the "minimum distances between varieties" issue. Those questions will be reexamined at the next session. It is recalled that the question examined under the heading "minimum distances between varieties" is that of the distance that there has to be between two varieties--for instance a purported variety for which an application for protection has been filed and a variety whose existence is a matter of common knowledge--expressed in the form of differences in respect of one or more "important" characteristics, for protection to be granted. A similar question arises in legal areas other than that of actual plant variety protection, for instance in the recording of varieties in catalogues of varieties approved for marketing, and also in both the conceptual and the practical field, as it is at the very root of the variety notion. It has recently acquired considerable importance, notably on account of the intensification of plant improvement work and the use of plant breeding techniques such as the exploitation of natural or induced mutations and backcrosses (which produce types of material that differ little from each other), and also on account of the progress made in examination techniques (which enable more and finer differences to be found). In view of this trend, this issue has been placed on the agenda of the Meeting with International Organizations.

Finally, the Committee was presented with a series of proposals by the Delegation of France with a view to the improvement of the position of breeders of varieties of genetically unstable, vegetatively propagated species. Such species are subject to frequent spontaneous mutation, so that a competitor can bypass with relative ease the protection of a variety that has proved its worth on the market, by looking for and marketing a mutant distinguished from that variety only by a commercially unimportant characteristic. The introduction of a "right of access," in other words a right that would make the filing of an application for protection for a mutant subject to authorization by the

owner of the protection of the parent variety, would call for amendment of the Convention and was considered undesirable. The introduction of variety registers and repositories determining common knowledge was regarded as a partial solution, inasmuch as it would make it possible to prevent the protection of a mutant, but without prohibiting its marketing by a third party. Moreover such a system already existed in certain States. The last proposal consisted in the introduction of a streamlined examination, offering the advantage of reduced fees, which the breeder of the parent variety could make use of in order to secure protection for a mutant distinguishable from the parent variety by one or more characteristics entered in a limitative list. This proposal, in the view of the Committee, raised a certain number of practical problems (difficulties in applying it to those species with which spontaneous mutations affect a whole set of characteristics, distinction between natural and induced mutations, longer period for examination of the parent variety than that required for discovery and examination of the mutant, etc.). The Committee therefore decided that the Delegation of France should introduce the streamlined examination system as an experiment, and that it should report to a subsequent session on whatever experience had been gained from its practical application, after which the Committee would consider whether there was any purpose in extending the system to other species and other States.

#### Twenty-seventh Session of the Consultative Committee, April 1983

The Consultative Committee held its twenty-seventh session on April 28, 1983, under the chairmanship of Dr. W. Gfeller (Switzerland). All member States except Hungary were represented.

The main business of the session was as follows:

The Committee examined the wishes expressed by the international non-governmental organizations at the Information Meeting held in November 1982.

The Committee settled the arrangements for the Meeting with International Organizations to be held on November 9 and 10, 1983, and decided in particular that the following items would be dealt with:

- Minimum distances between varieties
- International cooperation
- UPOV Recommendations on Variety Denominations.

The Committee approved the arrangements made for the 1983 Symposium to be held on October 12, 1983, in the framework of the seventeenth ordinary session of the Council. The subject of the Symposium will be "Nomenclature."

The Committee noted the state of progress of the Headquarters Agreement to be concluded with the Swiss Confederation, pursuant to Article 24(3) of the Geneva Act of October 23, 1978, of the UPOV Convention

The Committee examined the steps to be taken in the matter of color charts and color measurement, in view of the fact that the RHS Colour Chart now used was out of print.

MEMBER STATES
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#### France: Modification of Fees

By Order of March 17, 1983 (Journal officiel of April 8, 1983, page 3525), on the Tariff of Fees Charged in Respect of Plant Variety Protection, the fees for the examination of the application have been amended as follows (in French francs) with effect from April 8, 1983:

<u>Fees for the Examination of the Application</u>	<u>Crop</u>	A	B	C
- in the case of test growings: per year (previous level)		2140 (1980)	2140 (1980)	1190 (1100)
- in the case of simplified tests (of a duration of less than one year) (previous level)		-	-	356 (330)

- A: Agricultural crops except flax and rice, horticultural and vegetable crops, ornamental plants mainly grown for cut flowers.  
 B: Fruit and forest trees, berry and soft fruit shrubs, lavender, flax, rice, vine.  
 C: Ornamental plants and shrubs grown only for the garden or in pots.

Concerning the other fees, which remain unchanged, reference is made to Plant Variety Protection No. 27, page 12.

#### South Africa: Amendment of Law

The Plant Breeders' Rights Act, 1976, as amended by the Plant Breeders' Rights Amendment Acts of 1980 (No. 5) and of 1981 (No. 14) has been further amended by the Plant Breeders' Rights Amendment Act, 1983 (No. 38) (Government Gazette Vol. 214, No. 8663, of April 20, 1983), mainly with a view to provide a legal basis for international cooperation in examination. Amendments have been made in Sections 1, 19, 20 and 40 and a new Section 5A has been inserted into the Act.

A consolidated text of the Plant Breeders' Rights Act, 1976, as amended by Acts No. 5 of 1980, No. 14 of 1981 and No. 38 of 1983 is published in the "Legislation" subsection, starting on page 33.

#### Spain: Modification of Fees

Under Article 21(3) and (4) of the Royal Decree-Law No. 24/1982 of December 29, 1982, Concerning Urgent Measures in Budgetary, Financial and Fiscal Matters (Boletín Oficial del Estado of December 31, 1982), a new tariff of plant variety protection fees was laid down with effect from January 1, 1983. The main fees are now as follows (in pesetas).

Type of Fee	Group	1	2	3	4
1. Application fee		6,600	6,600	6,600	6,600
2. Examination fee (per year)		15,400	15,400	11,000	8,800
3. Grant fee		6,600	6,600	6,600	6,600
4. Maintenance fee					
- first year		5,500	3,300	2,200	2,200
- second year		7,700	5,500	4,400	3,300
- third year		11,000	8,800	6,600	5,500
- fourth year		13,200	11,000	8,800	6,600
- fifth and subsequent years		15,400	13,200	11,000	8,800

Group 1: cereals, oil seeds, lucerne, cotton, sugar and fodder beet, vetch, potato, pea, broad bean and French bean.

Group 2: fruit trees, rose, carnation and strawberry.

Group 3: lettuce, tomato, onion, melon, sainfoin, red and white clover.

Group 4: all other species.

### United Kingdom: Modification of Fees

A new fee tariff has been introduced with effect from April 1, 1983, for both plant breeders' rights and National List of Varieties purposes, by The Plant Breeders' Rights (Fees) (Amendment) Regulations 1983 and The Seeds (National List of Varieties) (Fees) (Amendment) Regulations 1983. Some details of the new tariff are given below (in £).

#### Agricultural and Vegetable Plant Species

Type of Fee	Crop Purpose (a)	Cereals & Potatoes		Beet	Fodder and Oil & Fibre Plants		Field Beans & Field Peas		Swede Fodder Kale Fodder Radish		Vegetables	
		PBR	NL	NL	PBR	NL	PBR	NL	NL	PBR	NL	
<u>Application</u>		240	-	-	180	-	180	-	-	-	180	-
<u>Tests (b):</u>												
Year 1		425	425	330	330	330	175	175	330	175	175	175
Subsequent Year		385	385	330	330	330	175	175	330	175	175	175
<u>Grant of Rights</u>		95	-	-	60	-	60	-	-	-	60	-
<u>Renewals (c):</u>												
Year 2		180	90	90	100	75	100	75	65	90	90	55
Year 3		210	100	100	140	90	140	90	75	100	100	65
Year 4		230	120	120	175	110	175	110	100	110	110	75
Year 5		260	155	155	210	130	210	130	110	125	125	90
Year 6		275	185	185	250	155	250	155	130	140	140	100
Year 7 <u>et seq.</u>		275	185	185	250	155	250	155	130	140	140	110

- (a) PBR = Plant breeders' rights. NL = National Listing.
- (b) Test fees are charged for National Listing applications only in those cases where there is a Plant Breeders' Rights Scheme in operation and fees have not been paid in connection with tests on an application for a grant of plant breeders' rights.
- (c) No fees are payable for the annual renewal of vegetable varieties well known on January 1, 1973, of which seed is marketed only as 'standard seed.'

#### Decorative and Fruit species

Type of Fee \ Crop	Roses	Rhubarb Hops Soft Fruit Rootstocks Chrysanthemums (a)	Chrysan- themums (b)	Top Fruit	Perpetual Flowering Carnation	Conifers Taxads. Trees Shrubs Woody Climbers	Other Decora- tives
<u>Application</u>	75	75	75	75	75	75	75
<u>Tests:</u> in any one year	120	175	50	50(c) 175(d)	175	110	50
<u>Grant of Rights</u>	60	60	60	60	60	60	60
<u>Renewals:</u>							
Year 2	75	75	40	75	75	75	40
Year 3	90	90	50	90	90	90	50
Year 4	100	100	60	100	100	100	60
Year 5	110	110	60	110	110	110	60
Year 6 <u>et seq.</u>	125	125	90	125	125	125	90

- (a) A year-round perennial chrysanthemum variety of a perennial chrysanthemum variety flowered in its natural season under glass.
- (b) Any other perennial chrysanthemum variety.
- (c) In any one year before one or more of the trees undergoing tests comes into fruit.
- (d) In any one subsequent year.

COOPERATION IN EXAMINATION
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## EXTENSION OF AGREEMENTS

**Belgium and the Federal Republic of Germany**

The Administrative Agreement providing for cooperation in the examination of plant varieties for distinctness, homogeneity and stability concluded between the Service de la protection des obtentions végétales (SPOV - Service for the Protection of New Plant Varieties) of Belgium and the Bundessortenamt (BSA - Federal Office of Plant Varieties) of the Federal Republic of Germany (see UPOV Newsletter No. 13, page 6, and No. 17, page 11, and Plant Variety Protection No. 27, page 18) was extended, with effect from February 1, 1983, to Cocksfoot, Elatior Begonia, Triticale and Willow, which will be examined by the BSA on behalf of the SPOV. The taxa now covered by this agreement are listed below.

Taxa whose varieties will be examined by the Federal Republic of Germany

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Apium graveolens L.	Celery, Celeriac	Céleri, Céleri-rave	Sellerie
Begonia-Elatior-Hybridi	Elatior Begonia	Bégonia elatior	Elatior-Begonie
Brassica oleracea L. convar. acephala (DC.) Alef. var. gongylodes L.	Kohlrabi	Chou-rave	Kohlrabi
Brassica oleracea L. convar. acephala (DC.) Alef. var. sabellica L.	Curly Kale	Chou frisé	Grünkohl
Brassica oleracea L. convar. acephala (DC.) Alef. var. viridis L. & var. medullosa Thell.	Marrow-stem Kale, Fodder Kale	Chou fourrager	Markstammkohl, Futterkohl
Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis	Cauliflower	Chou-fleur	Blumenkohl
Brassica oleracea L. convar. capitata (L.) Alef. var. capitata	Red Cabbage, White Cabbage	Chou pommé (Chou rouge, Chou cabus)	Rotkohl, Weisskohl
Brassica oleracea L. convar. capitata (L.) Alef. var. sabauda L.	Savoy Cabbage	Chou de Milan	Wirsing
Brassica oleracea L. convar. oleracea var. gemmifera DC.	Brussels Sprouts	Chou de Bruxelles	Rosenkohl
Dactylis glomerata L.	Cocksfoot	Dactyle	Knäulgras
Daucus carota L. ssp. sativus (Hoffm.) Arcang.	Carrot	Carotte	Möhre

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Festuca pratensis</i> Huds.	Meadow Fescue	Fétuque des prés	Wiesenschwingel
<i>Fragaria</i> L.	Strawberry	Fraisier	Erdbeere
<i>Humulus lupulus</i> L.	Hop	Houblon	Hopfen
<i>Lycopersicon lycopersicum</i> (L.)	Tomato (greenhouse varieties only)	Tomate (variétés de serre seulement)	Tomate (nur Gewächshausarten)
<i>Pelargonium-Peltatum-Hybridi</i>	Hybrids of <i>Pelargonium peltatum</i> , Ivy-leaved <i>Pelargonium</i>	Hybrides de <i>Pelargonium peltatum</i> , <i>Géranium-lierre</i>	Hybriden von <i>Pelargonium peltatum</i> , Efeupelargonie
<i>Pelargonium-Zonale-Hybridi</i>	Hybrids of <i>Pelargonium zonale</i> , Zonal <i>Pelargonium</i>	Hybrides de <i>Pelargonium zonale</i> , <i>géranium</i>	Hybriden von <i>Pelargonium zonale</i> , Zonalpelargonie
<i>Pelargonium Peltatum</i> X <i>Pelargonium Zonale-Hybridi</i>	Hybrids of <i>Pelargonium peltatum</i> X <i>Pelargonium zonale</i>	Hybrides de <i>Pelargonium peltatum</i> X <i>Pelargonium zonale</i>	Hybriden von <i>Pelargonium peltatum</i> X <i>Pelargonium zonale</i> , Halbpeltaten
<i>Phleum bertolonii</i> DC.	Timothy	Fléole diploïde	Zwiebellieschgras
<i>Phleum pratense</i> L.	Timothy	Fléole des prés	Wiesenlieschgras
<i>Populus</i> L.	Poplar	Peuplier	Pappel
<i>Raphanus sativus</i> L. var. <i>sativus</i>	Radish	Radis	Radieschen
<i>Rhododendron</i> L.	Rhododendron, Azalea	Rhododendron, Azalée	Rhododendron, Azalee
<i>Ribes</i> L.	Currants, Gooseberry, except ornamental varieties	Cassis, Groseilliers, sauf variétés ornementales	Johannisbeere, Stachelbeere, ausser Ziersorten
<i>Ribes nigrum</i> L.	Black Currant	Cassis	Schwarze Johannisbeere
<i>Ribes niveum</i> Lindl.	White currant	Groseillier blanc	Weisse Johannisbeere
<i>Ribes sylvestre</i> (Lam.) Mert. et W. Koch	Red Currant	Groseillier rouge	Rote Johannisbeere
<i>Ribes uva-crispa</i> L.	Gooseberry	Groseillier à maquereau	Stachelbeere
<i>Rubus</i> subg. <i>Eubatus</i> Focke	Blackberry	Ronce	Brombeere
<i>Rubus idaeus</i> L.	Raspberry	Framboisier	Himbeere
<i>Saintpaulia ionantha</i> H. Wendl.	African Violet	<i>Saintpaulia</i>	Usambaraveilchen
<i>Salix</i> L.	Willow	Saule	Weide
<i>Scorzonera hispanica</i> L.	Black Salsify	Scorsonère, Salsifis noir	Schwarzwurzel
<i>Secale cereale</i> L.	Rye	Seigle	Roggen
X <i>Triticale</i>	<i>Triticale</i>	<i>Triticale</i>	<i>Triticale</i>
<i>Triticum spelta</i> L.	Spelt	Epeautre	Spelz
<i>Vicia faba</i> L. var. <i>major</i> Harz	Broad Bean, Horse Bean	Fève	Dicke Bohne
<i>Vicia faba</i> L. var. <i>minor</i> Harz	Field Bean, Tick Bean	Féverole	Ackerbohne



## Belgium and the Netherlands

The Administrative Agreement providing for cooperation in the examination of plant varieties for distinctness, homogeneity and stability concluded between the Service de la protection des obtentions végétales (SPOV - Service for the Protection of New Plant Varieties) of Belgium and the Minister of Agriculture and Fisheries of the Netherlands (see UPOV Newsletter No. 17, page 11, and Plant Variety Protection No. 27, page 18, and No. 28, page 40) was extended with effect from January 1, 1983, to four species of Bentgrass, Gerbera, Gladiolus, Iris, Lily, the Orchids and Tulip, which will be examined by the Dutch authorities on behalf of the SPOV. The taxa now covered by this agreement are listed below.

<u>Latine</u>	<u>Nederlands</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Agrostis canina</i> L.	Heidestruisgras, Kruipend struigras	Velvet Bent	Agrostide des bruyères, Agros- tide des chiens	Heidestraussgras, Hundsstraussgras
<i>Agrostis gigantea</i> Roth	Hoog struisgras	Red Top (Black Bent)	Agrostide géante	Weisses Straussgras
<i>Agrostis stolonifera</i> L.	Wit struisgras	Creeping Bent	Agrostide stolo- nifère	Flechtstraussgras
<i>Agrostis tenuis</i> Sibth.	Gewoon struisgras	Brown Top, Common Bent	Agrostide commune	Rotes Straussgras
<i>Allium cepa</i> L.	Ui	Onion	Oignon	Zwiebel
<i>Alstroemeria</i> L.	Incalelie	Alstroemeria	Alstroèmère, Lis des Incas	Inkalilie
<i>Brassica rapa</i> L. emend. Metzg. var. <i>rapa</i>	Raap, Stoppelknol	Turnip	Navet	Herbstrübe, Mairübe
Bromeliaceae Juss.: <i>Aechmea</i> Ruiz et Pav.; <i>Cryptanthus</i> Klotzsch ex O. et D. (Otto et A. Dietr.); <i>Guzmania</i> Ruiz et Pav.; <i>Neoregelia</i> L.B. Sm.; <i>Tillandsia</i> L.; <i>Vriesea</i> Lindl.	Bromelia-achtigen, voor zover beho- rende tot de ge- noemde geslachten en hun onderlinge hybriden	Bromeliaceae belonging to the mentioned genera and to their mutual hybrids	Broméliacées appartenant aux genres mentionnés et à leurs hybrides mutuels	Bromeliaceen, die zu den genannten Gattungen und ihren wechsel- seitigen Hybriden gehören
<i>Cucumis sativus</i> L.	Augurk, Komkommer (kasrassen)	Cucumber, Gherkin (greenhouse varieties)	Concombre, Corni- chon (variétés de serre)	Gurke (Gewächshaus- sorten)
<i>Dianthus caryophyllus</i> L.	Anjer	Carnation	Oeillet	Nelke
<i>Festuca rubra</i> L.	Roodzwenkgras	Red Fescue	Fétuque rouge	Rotschwengel
<i>Freesia</i> Klatt	Freesia	Freesia	Freesia	Freesie
<i>Gerbera</i> Cass.	Gerbera	Gerbera	Gerbera	Gerbera
<i>Gladiolus</i> L.	Gladiool	Gladiolus	Glaïeul	Gladiöle
<i>Iris</i> L.	Iris	Iris	Iris	Iris
<i>Lactuca sativa</i> L.	Sla (kasrassen)	Lettuce (green- house varieties)	Laitue (variétés de serre)	Salat (Gewächshaus- sorten)
<i>Lilium</i> L.	Lelie	Lily	Lis	Lilie
<i>Lolium perenne</i> L.	Engels Raaigras	Perennial Ryegrass	Ray-grass anglais	Deutsches Weidelgras
Orchidaceae Juss.	Orchiadeën	Orchids	Orchidées	Orchideen
<i>Poa pratensis</i> L.	Veldbeemdgras	Kentucky Bluegrass, Smooth Stalked Meadow-grass	Pâturin des prés	Wiesenrispengras
<i>Poa trivialis</i> L.	Ruwbeemdgras	Rough Stalked Meadow-grass	Pâturin commun	Gemeines Rispengras
<i>Solanum tuberosum</i> L.	Aardappel	Potato	Pomme de terre	Kartoffel
<i>Spinacia oleracea</i> L.	Spinazie	Spinach	Epinard	Spinat
<i>Streptocarpus</i> Lindl.	Streptocarpus (Draaivruucht)	Streptocarpus	Streptocarpus	Drehfrucht
<i>Tulipa</i> L.	Tulp	Tulip	Tulipe	Tulpe

[Subsection continued on page 57]

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**BELGIUM****Royal Decree Fixing the Plant Species for Which  
a New Plant Variety Certificate may be Issued  
and Fixing the Duration of Protection  
for Those Species\***

of February 10, 1983\*\*

**Article 1**

The Service for the Protection of New Plant Varieties may, pursuant to the provisions of the Royal Decree of July 22, 1977, on the Protection of New Plant Varieties, issue New Plant Variety Certificates for the species the list of which appears in Annex 1 to this Decree.

**Article 2**

(1) In the case of bentgrass, onion, celery, oat, the cabbage species, turnip, endive, cucumber, gherkin, cocksfoot, carrot, meadow fescue, red and creeping fescue, barley, lettuce, flax and linseed, ryegrass, tomato, lucerne, runner bean, French bean, timothy, pea, smooth stalked meadow-grass, rough stalked meadow-grass, radish, black salsify, rye, spinach, clover, triticale, wheat, spelt, broad bean, field bean, maize, the breeder's rights shall relate to any type of seed, whether certified or not, to any part of the plant used as propagating material and also to plants marketed for planting purposes.

(2) In the case of potato, the breeder's rights shall relate to any type of planting material, whether certified or not, and also to any part of the plant used as propagating material.

**Article 3**

In the case of strawberry, the breeder's rights shall relate to the whole plant or parts thereof to be used as reproductive or vegetative propagating material.

**Article 4**

In the case of alstroemeria, begonia, the Bromeliaceae, chrysanthemum, carnation, freesia, gerbera, gladiolus, iris, lily, the orchids, pelargonium, azalea, rhododendron, rose, African violet, streptocarpus, tulip, the breeder's rights shall relate to the whole plant or parts thereof to be used as reproductive or vegetative propagating material of the variety.

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\* French title: Arrêté royal déterminant les espèces végétales pour lesquelles un certificat d'obtention peut être délivré et fixant la durée de la protection pour ces espèces.

\*\* Translation by the Office of the Union of the text published in the Moniteur belge - Belgisch Staatsblad of April 19, 1983, on pages 4808 to 4810.

Article 5

In the case of hop, apple, pear, quince, cherry, plum, apricot, myrobalan, peach, black, red and white currants, gooseberry, raspberry, blackberry, all varieties except ornamental varieties, but including rootstocks, may be protected; the breeder's rights shall relate to any part of the plant to be used as vegetative propagating material, such as plants, grafts, cuttings, layers.

The breeder's rights shall also relate to any type of seed or to the pips and stones of those species in cases where they may be used as seeds for the generative reproduction of the varieties.

Article 6

In the case of poplar and willow, the breeder's rights shall relate to the cuttings and, in general, to any part of the plant to be used as reproductive or vegetative propagating material.

Article 7

The New Plant Variety Certificates relating to the species referred to in Articles 2, 3 and 4 of this Decree, with the exception of potato, shall have a duration of twenty years; the duration shall be twenty-five years for the species referred to in Articles 5 and 6 and for potato.

Article 8

The Royal Decree of November 25, 1977, Fixing the Plant Species for Which a New Plant Variety Certificate may be Issued and Fixing the Duration of Protection for Those Species, as amended by Royal Decrees of February 12, 1979, September 17, 1979, May 5, 1981, and September 10, 1981, shall be repealed.

Article 9

This Decree shall enter into force on the day following its publication in the Moniteur belge.

Article 10

The State Secretary for Agriculture shall implement this Decree.

Annex 1

## List referred to in Article 1

## Genera and Species to be Protected

<u>Latine</u>	<u>Nederlands</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Agrostis canina L.	Heidestruisgras, Kruipend struigras	Agrostide des bruyères, Agrostide des chiens	Velvet Bent	Heidestraussgras, Hundsstraussgras
Agrostis gigantea Roth	Hoog struisgras	Agrostide géante	Red Top (Black Bent)	Weisses Straussgras
Agrostis stolonifera L.	Fioringras	Agrostide stolo- nifère	Creeping Bent	Flechtstraussgras
Agrostis tenuis Sibth.	Gewoon struisgras	Agrostide commune	Brown Top, Common Bent	Rotes Straussgras
Allium cepa L.	Ajuin	Oignon	Onion	Zwiebel
Alstroemeria L.	Incalelie	Alstroèmère	Alstroemeria, Herb Lily	Inkalilie
Apium graveolens L.	Bleekselder, knolselder	Céleri, Céleri-rave	Celery, Celeriac	Blattsellerie, Knollensellerie
Avena byzantina K. Koch	Byzantijnse haver	Avoine d'Algérie	Algerian Oat	Mittelmeerhafer
Avena nuda L.	Naakte haver	Avoine nue	Naked Oat	Nackthafer
Avena sativa L.	Haver	Avoine	Oat	Hafer
Begonia-Elatior-Hybridi	Elatior-Begonia	Bégonia elatior	Elatior Begonia	Elatior-Begonie
Begonia X tuberhybrida Voss	Knolbegonia	Bégonia tubéreux	Tuberous Begonia	Knollenbegonie

<u>Latine</u>	<u>Nederlands</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Brassica oleracea L. convar. acephala (DC.) Alef. - var. gongylodes L.	Raapkool	Chou-rave	Kohlrabi	Kohlrabi
- var. sabellica L.	Boerenkool	Chou fris�	Curly Kale	Gr�nkohl
- var. medullosa Thell.	Mergkool	Chou moellier	Marrow-stem Kale	Markkohl
- var. viridis L.	Voederkool	Chou fourrager	Fodder Kale	Futterkohl
Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis	Bloemkool	Chou-fleur	Cauliflower	Blumenkohl
Brassica oleracea L. convar. capitata (L.) Alef. var. capitata L. - f. alba DC.	Witte kool	Chou cabus	White Cabbage	Weisskohl
- f. rubra (L.) Thell.	Rode kool	Chou rouge	Red Cabbage	Rotkohl
Brassica oleracea L. convar. capitata (L.) Alef. var. sabauda	Savoyekool	Chou de Milan	Savoy Cabbage	Wirsing
Brassica oleracea L. convar. oleracea var. gemmifera DC.	Spruitkool	Chou de Bruxelles	Brussels Sprouts	Rosenkohl
Brassica rapa L. var. rapa (L.) Thell.	Raap	Navet	Turnip	Herbstr�be, Mair�be
Bromeliaceae Juss. Aechmea Ruiz et Pav., Cryptanthus Otto et A. Dietr., Guzmania Ruiz et Pav., Neoregelia L.B. Sm., Tillandsia L., Vriesea Lindl.	Bromelia-achtigen behorende tot de geslachten en hun onderlinge hybri- den:	Brom�liac�es appartenant aux genres et � leurs hybrides mutuels:	Bromeliaceae belonging to the genera and to their mutual hybrids:	Bromeliaceen, die zu den Gattungen und ihren wechsel- seitigen Hybriden geh�ren:
Chrysanthemum partim	Chrysant	Chrysanth�me	Chrysanthemum	Chrysantheme
Cichorium endivia L.	Andijvie	Chicor�e fris�e, Scarole	Endive	Winterendivie

<u>Latine</u>	<u>Nederlands</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Cucumis sativus L.	Konkommer, augurk	Concombre, Cornichon	Cucumber, Gherkin	Salatgurke, Essiggurke
Cydonia Mill.	Kweeper	Cognassier	Quince	Quitte
Dactylis glomerata L.	Kropaar	Dactyle	Cocksfoot, Orchard Grass	Knaulgras
Daucus carota L.	Peen	Carotte	Carrot	Möhre
Dianthus caryophyllus L.	Anjer	Oeillet	Carnation	Nelke
Festuca pratensis Huds.	Beemdlangbloem	Fétuque des prés	Meadow Fescue	Wiesenschwingel
Festuca rubra L.	Roodzwenkgras	Fétuque rouge	Red Fescue, Creeping Fescue	Rotschwingel
Fragaria L.	Aardbei	Fraisier	Strawberry	Erdbeere
Freesia Eckl. ex Klatt	Freesia	Freesia	Freesia	Freesie
Gerbera Cass.	Gerbera	Gerbera	Gerbera	Gerbera
Gladiolus L.	Gladiool	Glaïeul	Gladiolus	Gladiole
Hordeum vulgare L.	Gerst	Orge	Barley	Gerste
Humulus lupulus L.	Hop	Houblon	Hop	Hopfen
Iris L.	Iris	Iris	Iris	Iris
Lactuca sativa L.	Sla	Laitue	Lettuce	Salat
Lilium L.	Lelie	Lis	Lily	Lilie
Linum usitatissimum L.	Vlas	Lin	Flax, Linseed	Lein
Lolium multiflorum Lam.,	Italiaans raaigras, Westerwolds	Ray-grass d'Italie, Ray-grass de Westerwold,	Italian Ryegrass, Westerwold Rye- grass,	Italienisches Raygras, Welsches Weidelgras,
Lolium perenne L.,	Engels raaigras,	Ray-grass anglais,	Perennial Rye- grass,	Deutsches Weidelgras,
et Lolium X hybridum Hausskn.	en hun onderlinge hybriden	et leurs hybrides mutuels	and their mutual hybrids	und ihre wechsel- seitigen Hybriden

<u>Latine</u>	<u>Nederlands</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Lycopersicon lycopersicum L.	Tomaat	Tomate	Tomato	Tomate
Malus Mill.	Appel	Pommier	Apple	Apfel
Medicago sativa L., Medicago X varia Martyn	Luzerne	Luzerne	Lucerne	Luzerne
Orchidaceae Juss.	Orchideeën	Orchidées	Orchids	Orchideen
Pelargonium-Peltatum-Hybridi	Hanggeranium	Géranium-lierre	Ivy-leaved Pelargonium	Efeu-pelargonie
Pelargonium-Zonale-Hybridi	Tuingeranium	Géranium, Pelargonium zonale	Zonal Pelargonium	Zonalpelargonie
Pelargonium-Peltatum X P.-Zonale-Hybridi	Hybriden van Pelargonium-Peltatum X P.-Zonale	Hybrides de Pelargonium-Peltatum X P.-Zonale	Hybrids of Pelargonium-Peltatum X P.-Zonale	Hybriden von Pelargonium-Peltatum X P.-Zonale, Halbpeltaten
Phaseolus coccineus L.	Pronkboon	Haricot d'Espagne	Runner Bean, Kidney Bean	Prunkbohne
Phaseolus vulgaris L.	Boon	Haricot	French Bean	Gartenbohne
Phleum bertolonii DC.	Kleine timothee	Fléole diploïde	Timothy	Zwiebellieschgras
Phleum pratense L.	Lammerstaart	Fléole des prés	Timothy	Wiesenlieschgras
Pisum sativum L.	Erwt	Pois	Pea	Erbse
Poa pratensis L.	Veldbeemdgras	Pâturin des prés	Kentucky Bluegrass, Smooth Stalked Meadow-Grass	Wiesenrispengras
Poa trivialis L.	Ruwbeemdgras	Pâturin commun	Rough Stalked Meadow-Grass	Gemeines Rispengras
Populus L.	Populier	Peuplier	Poplar	Pappel
Prunus L.	Kers, pruim, abrikoos, kerspruim, perzik	Cerisier, prunier, abricotier, myrobolan, pêcher	Cherry, Plum, Apricot, Myrobalan, Peach	Kirsche, Pflaume, Aprikose, Myrobalane, Pfirsich

<u>Latine</u>	<u>Nederlands</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Pyrus L.	Peer	Poirier	Pear	Birne
Raphanus sativus L. var. sativus	Radijs	Radis de tous les mois	Radish	Radieschen
Rhododendron L.	Azalea, Rhododen- dron	Azalée, Rhododen- dron	Azalea, Rhododen- dron	Azalee, Rhododen- dron
Ribes L.	Zwarte aalbes, witte en rode trosbes, kruisbes en hybriden van deze soorten	Cassis, groseil- liers blanc et rouge, groseil- lier à maquereau et hybrides de ces espèces	Black, Red and White Currants, Gooseberry and hybrids of these species	Schwarze, Weisse und Rote Johannis- beeren, Stachel- beere und Hybriden dieser Arten
Rosa L.	Roos	Rosier	Rose	Rose
Rubus L.	Framboos, Braambes	Framboisier, Ronce	Raspberry, Blackberry	Himbeere, Brombeere
Saintpaulia ionantha H. Wendl.	Kaaps viooltje	Saintpaulia	African Violet	Usambaraveilchen
Salix L.	Wilg	Saule	Willow	Weide
Scorsonera hispanica L.	Schorsoneer	Scorsonère	Black Salsify	Schwarzwurzel
Secale cereale L.	Rogge	Seigle	Rye	Roggen
Solanum tuberosum L.	Aardappel	Pomme de terre	Potato	Kartoffel
Spinacia oleracea L.	Spinazie	Epinard	Spinach	Spinat
Streptocarpus Lindl.	Draaivrucht	Streptocarpus	Streptocarpus	Drehfrucht
Trifolium pratense L.	Rode klaver	Trèfle violet	Red Clover	Rotklee
Trifolium repens L.	Witte klaver	Trèfle blanc	White Clover	Weissklee
X Triticale	Triticale	Triticale	Triticale	Triticale
Triticum aestivum L. emend. Fiori et Paol.	Zachte tarwe	Blé tendre	Wheat, Soft Wheat, Bread Wheat	Weichweizen



<u>Latine</u>	<u>Nederlands</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Triticum durum Desf.	Harde tarwe	Blé dur	Durum Wheat, Macaroni Wheat, Hard Wheat	Hartweizen
Triticum spelta L.	Spelt	Epeautre	Spelt	Spelz
Tulipa L.	Tulp	Tulipe	Tulip	Tulpe
Vicia faba L. var. major Harz	Tuinboon	Fève	Broad Bean, Horse Bean	Dicke Bohne (Puffbohne)
Vicia faba L. var. minor Harz	Veldboon	Féverole	Field Bean, Tick Bean	Ackerbohne
Zea mays L.	Maïs	Maïs	Maize	Mais

[This text replaces the text published in Plant Variety Protection No. 30]

## SOUTH AFRICA

### Plant Breeders' Rights Act\*

Consolidated Text of Act No. 15 of 1976 as Amended  
by Acts No. 5 of 1980, No. 14 of 1981 and No. 38 of 1983\*\*

#### Section 1

#### Definitions

In this Act, unless the context indicates otherwise -

(i) "advertise" means to distribute to members of the public or to bring to their notice in any manner whatsoever any written, illustrated, visual or other descriptive material, oral statement, communication, representation or reference with the intention to promote the sale of any propagating material of a new variety or to encourage the use thereof or to draw attention to the nature, properties, advantages or uses thereof or to the manner in which or the conditions on which it may be purchased or otherwise be acquired;

(ii) "agent" means a person, resident in the Republic, who has been duly authorized by an applicant, breeder or holder to act on his behalf in connection with any matter regarding this Act, who is for such purpose recognized by the registrar in the prescribed manner if he complies with the prescribed requirements and in respect of whom the registrar has not been notified in the prescribed manner that such authorization has been terminated;

(iii) "agreement country" means a country, including any colony, protectorate or territory subject to the authority or under the suzerainty of any other country and any territory over which a mandate or trusteeship is exercised, which the State President by proclamation in the Gazette declares to be an agreement country with a view to the fulfilment of a bilateral agreement concerning plant breeders' rights between the Republic and such country;

(iv) "applicant" means a person referred to in section 6 who applies in terms of section 7 for a plant breeder's right;

(v) "board" means the board referred to in section 42;

(vi) "breeder", in relation to a new variety, means the person who directed the breeding of the new variety, or who developed or discovered it;

(vii) "convention country" means a country, including any colony, protectorate or territory subject to the authority or under the suzerainty of any other country and any territory over which a mandate or trusteeship is exercised, which has signed and ratified, accepted or approved or has acceded to the International Convention for the Protection of New Varieties of Plants;

(viii) "denomination", in relation to a new variety in respect of which a plant breeder's right has been granted, means the generic name for the new variety;

(ix) "department" means the Department of Agriculture;

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\* Full Title (of Act No. 15 of 1976) : Act to provide for a system whereunder rights relating to new varieties of certain kinds of plants may be granted and registered; for the protection of such rights and the grant of licences in respect of the exercise thereof; and to provide for incidental matters.

\*\* Consolidated text prepared from the texts published in the Government Gazette:

Act No. 15 of 1976: G.G. of March 24, 1976 (Vol. 129, No. 5027)  
Act No. 5 of 1980: G.G. of March 28, 1980 (Vol. 177, No. 6908)  
Act No. 14 of 1981: G.G. of February 25, 1981 (Vol. 188, No. 7435)  
Act No. 38 of 1983: G.G. of April 20, 1983 (Vol. 214, No. 8663)

and kindly supplied by the Registrar of Plant Breeders' Rights.

(x) "holder", in relation to a plant breeder's right, means the person to whom such a right has been granted in terms of section 20, or who, according to an entry in the register, is the owner of such a right;

(ix) "department" means the Department of Agriculture;

(x) "holder", in relation to a plant breeder's right, means the person to whom such a right has been granted in terms of section 20, or who, according to an entry in the register, is the owner of such a right;

(xi) "kind of plant" means all related genera, species and subspecies of a plant which are known by the same common name;

(xii) "mark" means a mark as defined in section 2 of the Trade Marks Act, 1963 (Act 62 of 1963);

(xiii) "Minister" means the Minister of Agriculture;

(xiv) "new variety" means a variety which complies with the requirements of section 2;

(xv) "officer" means an officer or an employee as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957);

(xvi) "plant" means any tree, shrub or vegetation, and includes any live part thereof, but does not include any propagating material or a derivative thereof which is used for a purpose other than the propagation or multiplication of the plant;

(xvii) "plant breeder's right" means a plant breeder's right granted in terms of section 20;

(xviii) "prescribed" means prescribed by regulation;

(xix) "propagating material" means any reproductive and vegetative propagating material, as such, of a variety;

(xx) "register" means the register kept in terms of section 4;

(xxi) "registrar" means the officer designated as Registrar of Plant Breeders' Rights in terms of section 3;

(xxii) "regulation" means a regulation made under this Act;

(xxiii) "sell" includes agree to sell, or to offer, advertise, keep, expose, transmit, send, convey or deliver for sale, or to exchange or to dispose of to any person in any manner for a consideration; and "sold" and "sale" have corresponding meanings;

(xxiv) "this Act" includes the regulations;

(xxv) "variety" means any cultivar, clone, breeding line or hybrid of a kind of plant which can be cultivated.

## Section 2

### Application of Act

(1) (a) This Act shall, subject to the provisions of paragraph (b), apply in relation to every new variety of any prescribed kind of plant.

(b) The application of this Act may in the case of a particular kind of plant be limited to those varieties which reproduce or multiply in a prescribed manner or are used for a prescribed purpose.

(2) A variety of a plant referred to in subsection (1) shall be deemed to be a new variety if it complies with the prescribed requirements.

## Section 3

### Designation of registrar

(1) The Minister shall designate an officer in the department as the Registrar of Plant Breeders' Rights, who shall be the authority to whom the protection of new plant varieties is entrusted, and who shall exercise the powers,

perform the functions and carry out the duties conferred upon, assigned to or imposed upon the registrar under this Act.

(2) The registrar shall exercise his powers, perform his functions and carry out his duties subject to any instructions issued by the Minister.

(3) (a) Any power conferred upon, function assigned to or duty imposed upon the registrar may be exercised, performed or carried out by the registrar personally or by an officer under the delegation, control or direction of the registrar.

(b) Any decision made or order given by any such officer may be withdrawn or amended by the registrar, and shall, until it has been so withdrawn or amended, be deemed, except for the purposes of this paragraph, to have been made by the registrar.

(4) The officer designated as registrar in terms of section 3(1) of the Plant Breeders' Rights Act, 1964 (Act 22 of 1964), shall be deemed to have been designated as Registrar of Plant Breeders' Rights in terms of this section.

#### Section 4

##### **Register of plant breeders' rights**

(1) The registrar shall keep a register in which the prescribed particulars in respect of plant breeders' rights granted in terms of this Act shall be entered.

(2) The register shall, upon payment of the prescribed fee, be open for inspection at the office of the registrar during office hours.

(3) The registrar shall furnish, at the request of any person and upon payment of the prescribed fee, a copy of any particulars in the register or a certificate in respect thereof.

(4) The register kept in terms of section 4 of the Plant Breeders' Rights Act, 1964 (Act 22 of 1964), shall be incorporated in and form part of the register to be kept under this section, and any document supplied to the registrar under that Act in terms of any provision thereof, shall be deemed to have been furnished to the registrar under the corresponding provision of this Act.

#### Section 5

##### **Register to be evidence**

(1) The register shall be prima facie evidence of all matters directed or authorized by this Act to be noted therein.

(2) A certificate by the registrar to the effect that an entry has or has not been made in the register or that any other thing authorized by this Act to be done, has or has not been done, shall be prima facie evidence of the matters specified in that certificate.

(3) A copy of an entry in the register or an extract from the register, certified by the registrar, shall be admitted in evidence in any court without further proof or production of the register.

#### Section 5A

##### **Entering into of certain agreements by registrar**

The registrar may, with the approval of the Minister, granted with the concurrence of the Minister of Foreign Affairs and Information and the Minister of Finance, enter into an agreement with the appropriate authority in a convention country or an agreement country in terms of which the registrar may -

- (a) obtain results of tests and trials undertaken by any such authority with a variety referred to in section 19(2) of this Act, from such authority;
  - (b) furnish the results of tests and trials -
    - (i) undertaken by him in terms of section 19(2)(a) of this Act with a variety referred to in that section; or
    - (ii) undertaken by him with a variety in respect of which the appropriate authority concerned has submitted propagating material to him for such purpose,
 to the authority concerned, if an application for the protection of the variety has been made in that other country in accordance with the laws in force in the country concerned; and
  - (c) submit propagating material of a variety in respect of which application for a plant breeders' right has been made to him, to the authority concerned in order to have the necessary tests and trials undertaken therewith and to furnish the results thereof to him,
- against payment of the fees mentioned in the agreement.

### Section 6

#### Persons who may apply for plant breeder's right

- (1) An application for the grant of a plant breeder's right may be made by -
  - (a) the breeder of a new variety of a kind of a plant referred to in section 2(1); or
  - (b) if the breeder is an employee (irrespective of whether or not he is paid a salary) whose duties are such that they involve plant breeders' activities relating to the kind of plant in question, and the new variety in question was bred in the performance of such duties, the employer of such breeder; or
  - (c) the successor in title of the breeder or employer referred to in paragraphs (a) and (b), respectively.
- (2) An application referred to in subsection (1) may only be made by a person who -
  - (a) is a citizen of, or is domiciled in, the Republic or a convention country or an agreement country; or
  - (b) in the case of a juristic person, has a registered office in the Republic or a convention country or an agreement country.

### Section 7

#### Application for plant breeder's right

- (1) An application for the grant of a plant breeder's right shall be made in the prescribed manner, be accompanied by the prescribed application fee and documents, and contain an address in the Republic to which any notice or communication may be sent.
- (2) An application under subsection (1) by a person who is not resident in the Republic or, in the case of a juristic person, which does not have a registered office in the Republic, shall be submitted only through an agent.
- (3) The registrar may require -
  - (a) that plants of the variety in question, or of the variety from which it originated, be shown to him; and

- (b) that such additional information or specimens as he may deem necessary to determine whether or not the variety concerned constitutes a new variety, be furnished to him.

### Section 8

#### Priority and redating of applications

(1) The effective date of an application in terms of section 7 shall be the date on which it is received by the registrar, and if more than one application in respect of the same variety is received, priority shall be given by the registrar in accordance with the regulations.

(2) If an application in terms of section 7 is preceded by an application by or on behalf of the same applicant for protection of the same new variety in a convention or an agreement country and the last-mentioned application has been deposited in accordance with the laws in force in that country, the registrar shall, notwithstanding the provisions of subsection (1) of this section, give priority to the first-mentioned application if -

- (a) it is submitted to the registrar in the prescribed form within the prescribed period of the date on which such preceding application was duly deposited in a convention country or an agreement country;
- (b) it is accompanied by a claim in respect of the priority thereof; and
- (c) it is accompanied by the prescribed application fee.

### Section 9

[Repealed by Amendment Act 5/1980]

### Section 10

#### Denomination of new variety

(1) The denomination of a new variety shall comply with the prescribed requirements and be proposed by the person who applies for the grant of a plant breeder's right in respect thereof, and such denomination shall be subject to the approval of the registrar.

(2) No denomination, other than the approved denomination of a variety, may at any time, whether before or after the expiry of the term of the plant breeder's right granted in respect thereof, be used in connection with such variety.

(3) The provisions of subsection (2) shall not be construed so as to prohibit the proprietor or other registered user of a mark to use such mark in conjunction with the denomination in respect of which a plant breeder's right has been granted.

### Section 11

#### Rejection of application

(1) The registrar may reject an application made to him under section 7 if it appears to him -

- (a) that the application does not comply with any provision of this Act;
- (b) that the variety in respect of which the application is made -
  - (i) is not a new variety;
  - (ii) does not comply with any provision of this Act; or
  - (iii) does not belong to a prescribed kind of plant;

- (c) that the applicant is not under this Act entitled to make the application;
  - (d) that the application contains a material misrepresentation;
  - (e) that the application fraudulently affects the rights of the holder of a plant breeder's right or of the person to whom provisional protection has been granted in terms of section 14;
  - (f) that the applicant refuses or has failed or is not able to propose an acceptable denomination;
  - (g) that the propagation of the variety in question would require repeated use of propagating material of another variety for which plant breeders' rights have been granted to or applied for by another person, unless such propagating material is used under a licence issued in terms of section 25 or 27;
  - (h) that the description submitted does not clearly describe the variety; or
  - (i) that, where such application has been preceded by an application by or on behalf of the same applicant for protection of the same variety in a convention country or an agreement country, the description submitted to him differs from the description submitted in such preceding application or that the description in such preceding application does not describe a new variety referred to in section 2.
- (2) If the registrar rejects an application in terms of subsection (1) he shall in writing advise the person who applied for the grant of a plant breeder's right, of his decision and of the grounds on which it is based.

### Section 12

#### Amendment of application

- (1) A person who has made an application under section 7 for the grant of a plant breeder's right, may at any time before such application is published under section 13, add to or alter the description which accompanied his application, or the proposed denomination of the variety in question.
- (2) If an application is made for such addition or alteration after the said publication, the registrar may, if he is of the opinion that the addition or alteration is of material importance, direct that the date of the application for the addition or alteration shall be a date not earlier than the date of the relevant application under section 7, or that the date of the application under section 7 shall be a date not later than the date of the application for the addition or alteration, and the registrar shall in either case republish the application under section 7 in amended form.

### Section 13

#### Publication of application

- (1) If the registrar does not reject an application under section 11, he shall by notice in the Gazette publish such particulars relating to the application as may be prescribed.
- (2) If an application published under subsection (1) is withdrawn before a plant breeder's right in respect thereof is granted or refused in terms of this Act, the registrar shall publish the fact of such withdrawal by notice in the Gazette.

#### Section 14

##### Grant of provisional protection

- (1) The registrar may, at the request of a person whose application for the grant of a plant breeder's right is to be published under section 13(1), issue a protective direction to such person in respect of the variety in question.
- (2) Such protective direction shall be issued only -
  - (a) if the registrar is satisfied that such information, facilities and material as he may require to enable him to consider the application for the grant of a plant breeder's right, have been furnished to him; and
  - (b) if the applicant has given a written undertaking to the registrar that, subject to the provisions of subsection (3), he shall not, while the protective direction is in force, sell or consent to sell in the Republic any reproductive material of the variety in question.
- (3)
  - (a) The holder of a protective direction shall, notwithstanding an undertaking referred to in subsection (2)(b), be entitled to sell or offer for sale reproductive material of the variety in question for the purposes of multiplication or testing.
  - (b) All the reproductive material produced, directly or indirectly, during such multiplication or testing, as well as any unused reproductive material, shall become or remain the property of the holder of the protective direction.

#### Section 15

##### Effect of provisional protection

While a protective direction is in force, the variety in respect of which it was issued shall be protected as if a plant breeder's right had been granted in respect thereof, and anything that would constitute an infringement of a plant breeder's right or would be actionable in proceedings by the holder of such right, shall, if it is done with reference to a variety so protected, be actionable.

#### Section 16

##### Termination of provisional protection

- (1) A protective direction issued under section 14 shall, subject to the provisions of subsection (2), cease to be of force on the date on which the registrar finally allows or refuses the application for a plant breeder's right in respect of the variety for which the protective direction was issued.
- (2) A protective direction -
  - (a) may be withdrawn at an earlier date by the registrar if, in his opinion, circumstances justify the withdrawal; and
  - (b) shall be withdrawn at an earlier date by the registrar if he is satisfied that the holder thereof -
    - (i) has failed to fulfil the terms of an undertaking referred to in paragraph (b) of section 14(2); or
    - (ii) has given an undertaking, whether enforceable by law or not, to another person in terms whereof such holder is deprived of the right to institute an action referred to in section 47, or an action for damages in respect of an infringement of a plant breeder's right.



### Section 17

#### Objection to grant of plant breeder's right

- (1) Any person may within the prescribed period, in the prescribed manner and on payment of the prescribed fee, lodge an objection with the registrar to the grant of a plant breeder's right in pursuance of an application in terms of section 7.
- (2) The applicant may within the prescribed period and in the prescribed manner lodge with the registrar a counter-statement against such objection.

### Section 18

#### Hearing of an objection

- (1) An objection under section 17 shall be heard on the date and at the place and time fixed by the registrar, who shall advise the person objecting and the person who applied for the relevant plant breeder's right, in writing thereof.
- (2) The registrar may in his discretion appoint one or more persons who, in his opinion, have experience in the administration of justice or skill in any matter which may be considered at the hearing, to assist and advise him with regard to the hearing of the objection, and the remuneration of any such person shall be as prescribed and shall be borne by the State.
- (3) The registrar may, for the purposes of the hearing of an objection -
  - (a) summon any person who, in his opinion, may give material information concerning the subject of the hearing or who he believes has in his possession or custody or under his control any document which has any bearing upon the subject of the hearing, to appear before him at a time and place specified in the summons, to be interrogated or to produce that document, and the registrar may retain for examination any document so produced;
  - (b) administer an oath to or accept an affirmation from any person called as a witness at the hearing; and
  - (c) call any person present at the hearing as a witness and interrogate him and require him to produce any document in his possession or custody or under his control.
- (4) The procedure at the hearing of an objection shall be determined by the registrar.
- (5) The person objecting and the person who applied for the plant breeder's right in question may, if he appears before the registrar at the hearing of an objection, be represented by an advocate or an attorney or by a patent agent registered under section 89 of the Patents Act, 1952 (Act 37 of 1952).
- (6) The registrar shall, after the hearing of an objection, in writing advise the person objecting and the person who applied for the grant of the relevant plant breeder's right, of his decision and of the grounds on which it is based.
- (7) An application in respect of which the registrar upholds an objection shall lapse, and the registrar shall by notice in the Gazette publish such particulars relating to the lapsing as may be prescribed.

### Section 19

#### Consideration and examination of applications

- (1) (a) The registrar shall consider every application for the grant of a plant breeder's right published under section 13(1) and all documents and

any other proof submitted to him in connection therewith, in order to ascertain whether the application complies with the requirements of this Act.

- (b) Where an objection has been lodged under section 17, or an undertaking or a guarantee is required in terms of subsection (4)(b), the registrar shall delay considering the relevant application until the objection has been disposed of or the required undertaking or guarantee has been furnished.

(2) The registrar shall -

- (a) undertake such tests and trials as he may deem necessary with a variety in respect of which an application is being considered under subsection (1); or
- (b) use the results of tests and trials obtained from the appropriate authority in a convention country or an agreement country in terms of an agreement referred to in section 5A,

in order to enable him to determine whether such a variety is a new variety.

(3) The person whose application is being considered shall, for the purposes of such tests and trials and at such a time and place as the registrar may determine -

- (a) pay, subject to the provisions of subsection (4), the appropriate prescribed examination fee; and

(b) furnish the registrar -

(i) with the propagating material which he may require;

(ii) with such specimens of plants of the variety or of parts of such plants as he may require; and

(iii) with such information in connection with the variety as he may require.

(4) (a) The costs involved in obtaining the results referred to in subsection (2)(b) shall be paid to the registrar by the person whose application is being considered at the time and place determined by the registrar.

(b) The registrar may require that a person whose application for a plant breeders' right is being considered, furnish him with a written undertaking or a suitable guarantee regarding a payment referred to in paragraph (a), before he takes steps to obtain the results of tests and trials with the variety concerned in terms of an agreement referred to in section 5A.

## Section 20

### Grant of plant breeder's right

(1) If the registrar, after considering an application in terms of section 19 and examining the results of any tests or trials conducted with the variety in question, is of the opinion -

(a) that the application conforms to the requirements of this Act;

(b) that the applicant is entitled under this Act to make the application; and

(c) that the variety is a new variety and that it conforms to the requirements of this Act,

and that no moneys are due by the applicant in terms of section 19, he shall grant a plant breeder's right in respect of such new variety.

- (2) The registrar shall in respect of each plant breeder's right granted -
- (a) issue a certificate of registration in respect thereof to the person who applied for the grant of the right;
  - (b) enter the applicable particulars referred to in section 4(1) in the register; and
  - (c) by notice in the Gazette publish such particulars relating to the grant of such right as may be prescribed.
- (3) (a) If the registrar refuses the grant of a plant breeder's right, he shall in writing advise the person who applied for the right of his decision and of the grounds on which it is based, and shall, subject to the provisions of paragraph (b), by notice in the Gazette publish such particulars relating to the refusal as may be prescribed.
- (b) The grounds on which the decision is based shall not be published in the said notice nor be open for inspection except by order of a court.

#### Section 21

##### **Period of plant breeder's right**

A plant breeder's right shall be granted for the period prescribed in respect of the kind of plant in question, which period shall be calculated from the date on which a certificate of registration is issued under paragraph (a) of section 20(2).

#### Section 22

##### **Payment of annual fee**

- (1) A person to whom a plant breeder's right has been granted shall, during the currency of such right, annually pay to the registrar the annual fee prescribed in respect of such right.
- (2) (a) The first such annual fee shall be payable on or before 1 January of the year following the date on which a plant breeder's right is granted, and any subsequent annual fee shall be paid before 1 January of each year.
- (b) The registrar shall, subject to the payment of such additional fees as may be prescribed, upon application extend the time for the payment of an annual fee for a period not exceeding 6 months or for periods the aggregate of which does not exceed 6 months.

#### Section 23

##### **Rights of holder of plant breeder's right**

- (1) The effect of the protection given under this Act by the grant of a plant breeder's right shall be that prior authority shall during the currency of the right be obtained by way of licence under section 25 or 27 by any person intending to undertake the production, sale, import into or export from the Republic of propagating material of the relevant new variety.
- (1A) The State President may by proclamation in the Gazette, and as from a date mentioned therein, extend the protection given by a plant breeder's right also to the sale of any product, normally not used as propagating material, of the variety in respect of which that plant breeder's right was granted.
- (2) Notwithstanding the provisions of subsection (1), the holder of a plant breeder's right shall during the period which the Minister may prescribe as a period for the exercise of sole rights in respect of the kind of plant to which

such new variety belongs, have the sole right to undertake with regard to the relevant new variety any activity referred to in that subsection or to have such activity undertaken by any other person.

(3) It shall not be an infringement of a plant breeder's right if a person who procured any propagating material of a new variety in a manner which does not infringe any right of the holder of the relevant plant breeder's right -

- (a) resells it;
- (b) sells any plant, propagating material or product derived therefrom for purposes other than the further propagation or multiplication thereof: Provided that the provisions of this paragraph shall not permit the sale of a product if such sale is in terms of subsection (1A) subject to a plant breeder's right; or
- (c) uses or multiplies it in the development of a hybrid or a different variety or for purposes of any other bona fide research: Provided that the repeated use, without the necessary authority, of the relevant propagating material for the commercial production of a different variety, shall constitute an infringement of a plant breeder's right.

(4) Notwithstanding the provisions of subsection (3)(b), an ornamental plant in respect of which a plant breeder's right has been granted and any part thereof which is normally sold for purposes other than multiplication thereof, shall enjoy the protection of such right when it is used commercially as propagating material in the production of such ornamental plant or of a cut flower.

(5) A proclamation in terms of subsection (1A) shall, in any case where the holder of the plant breeder's right in question is a citizen of, or is domiciled in, a convention country or an agreement country or, in the case of a juristic person, has a registered office in a convention country or an agreement country, be issued only if such holder can in terms of the laws of such country obtain corresponding protection in that country.

#### Section 24

##### **Maintenance of reproductive material**

(1) The holder of a plant breeder's right shall ensure that he is in a position during the currency of the right -

- (a) to furnish the registrar on request with propagating material of the variety in respect of which the right was granted and which is capable of reproducing the said variety in such a manner that the characteristics thereof correspond with those described at the time of the grant of the relevant right; and
- (b) on request to give to the registrar the information and to accord him the facilities deemed necessary by him to satisfy himself that such holder is maintaining propagating material which conforms to the requirements referred to in paragraph (a).

(2) The registrar may undertake any inspection in connection with any matter referred to in subsection (1) which he may deem necessary.

#### Section 25

##### **Licences**

(1) The holder of a plant breeder's right may at the request in writing of another person grant to such person a licence in terms of which such person may be authorized to undertake any activity referred to in section 23.

- (2) The licence may include conditions regarding -
- (a) the quantity of propagating material of the relevant variety to be supplied to the holder of the licence, and the price thereof;
  - (b) the royalties payable in respect of the exploitation of the licence;
  - (c) the information to be furnished to the holder of the relevant plant breeder's right regarding the extent to which the licence is being exploited;
  - (d) the period of validity of the licence, which shall not exceed the term of the relevant breeder's right;
  - (e) the transfer thereof;
  - (f) the punitive measures applicable with reference to any condition which is not complied with; and
  - (g) any other matter which the parties may agree to.
- (3) The holder of a plant breeder's right shall within the prescribed period notify the registrar in such form and manner as may be prescribed, of each licence issued by him under this section, and shall furnish the registrar with a copy of each such licence.
- (4) During the period which the Minister prescribes under section 23(2) as a period for the exercise of sole rights in respect of the kind of plant to which a new variety belongs, the registrar shall not issue a compulsory licence in respect of that variety in terms of section 27.

#### Section 26

##### **Application for compulsory licence**

- (1) Any person who is of the opinion that the holder of a plant breeder's right unreasonably refuses to grant him a licence under section 25, or that such a holder is imposing unreasonable conditions for the issue of such a licence, may in the prescribed manner and upon payment of the prescribed fee apply to the registrar for the issue to him of a compulsory licence in respect of the relevant plant breeders' right.
- (2) [Repealed by Amendment Act 5/1980]
- (3) [Repealed by Amendment Act 5/1980]
- (4) The holder of such plant breeder's right may within the prescribed period and in the prescribed manner lodge a counter-statement with the registrar in which are set out the particulars of any ground upon which he contests the application in question.
- (5) The holder of such plant breeder's right shall serve a copy of the counter-statement on the person who made the application and shall furnish the registrar with proof of the service thereof.
- (6) If the person who made the application and the holder of the relevant plant breeder's right at any stage after the application has been lodged with the registrar, reach an agreement with regard to the issue of a licence, the person who made the application shall inform the registrar of the agreement, whereupon the application shall lapse.

#### Section 27

##### **Grant of compulsory licence**

- (1) An application under section 26 shall be heard on the date and at the place and time fixed by the registrar, who shall advise the person who made the application and the holder of the plant breeder's right in writing thereof.

(2) The provisions of sections 18(2), (3), (4), (5) and (6) shall mutatis mutandis apply with reference to the hearing of the application.

(3) If the registrar is satisfied that the holder of a plant breeder's right is unreasonably refusing a licence under section 25 or imposing unreasonable conditions for the issue thereof, and is satisfied that, as a result of such refusal or such conditions, the reasonable requirements of the public with regard to the new variety in question are not being satisfied or will not be satisfied, he may issue a compulsory licence -

(a) which shall include the conditions referred to in paragraphs (a) up to and including (f) of section 25(2), and such other conditions as the registrar may determine;

(b) which may at any time be reviewed by the registrar by reason of representations made to him for the amendment or withdrawal thereof.

(4) In settling the terms of a compulsory licence the registrar shall endeavour to ensure that propagating material of the variety in question shall be available to the public at reasonable prices consistent with the holder of a plant breeder's right deriving a reasonable advantage therefrom.

(5) (a) A compulsory licence may be granted to any person whether or not the holder of the relevant plant breeder's right has granted a licence under section 25 to any other person.

(b) The issue of a compulsory licence shall not prevent the holder of the plant breeder's right from granting additional licences in terms of section 25.

#### Section 28

##### **Joint holders of plant breeder's right**

(1) Where a plant breeder's right is, after the commencement of this Act, granted to two or more persons jointly, each such person shall, subject to any written agreement to the contrary between them, be entitled -

(a) to an equal share in such right;

(b) to undertake in connection therewith for his own benefit any activity referred to in section 23, if he discloses any such activity to the other joint holders; and

(c) to institute any action in respect of any infringement of that right.

(2) A joint holder of a plant breeder's right shall not without the consent of the other joint holders be entitled -

(a) to grant a licence under section 25; or

(b) to transfer the whole or any part of his interest in such right.

(3) Where an action is founded on the sale of any propagating material by a joint holder of a plant breeder's right, such joint holder shall for the purposes of the action be deemed to be the sole holder of the plant breeder's right.

(4) The court may upon the application of any joint holder of a plant breeder's right and after giving to any other joint holder of the right an opportunity of being heard, give any direction with regard to the transfer of the right or any part thereof, or with regard to the grant of any licence in respect of the right, or with regard to the use and development of the right, as appears just and expedient, and each joint holder shall give effect to any such direction.

(5) If any person who is required to give effect to any direction under subsection (4) fails, within the period determined by the court or, failing such a determination, after being requested in writing to do so by any joint holder of the relevant right, to execute any instrument or to do any act or thing required to give effect to the direction, the court may empower any person to execute the instrument in question or to do the act or thing in question in the name of and on behalf of the person so failing.

### Section 29

#### Transfer of plant breeder's right

(1) The holder of a plant breeder's right under this Act or the Plant Breeders' Rights Act, 1964 (Act 22 of 1964), shall, within the prescribed period after such right or any part thereof has been transferred to another person and in the form and manner prescribed and upon payment of the prescribed fee -

- (a) inform the registrar of the name and address of the person to whom the right or part thereof has been transferred; and
- (b) furnish the registrar with proof that a notice of such transfer has been served on every person licensed in respect of that right.

(2) A person to whom a plant breeder's right or any part thereof has been transferred shall, if he appoints an agent with respect to such right, within the prescribed period and in the form and manner prescribed, inform the registrar of the name and address of such agent.

(3) The registrar shall by notice in the Gazette publish such particulars relating to a transfer of a plant breeder's right of which he is informed under this section, as may be prescribed.

### Section 30

#### State bound by plant breeder's right

(1) Subject to the provisions of subsection (2), a plant breeder's right shall in all respects bind the State in the same way as it binds any other person.

(2) No fees payable under this Act shall be payable by the State.

### Section 31

#### State may take over plant breeder's right

(1) (a) The Minister may after consultation with the Minister of Finance by notice in the Gazette take over on behalf of the State the plant breeder's right in any new variety of a kind of plant from a date determined by him and published in the same or later notice in the Gazette.

(b) As from the date determined under paragraph (a) all rights and liabilities pertaining to the said plant breeder's right shall be deemed to have been transferred to the State, and such rights shall as from that date vest in the Minister on behalf of the State.

(2) The Minister shall pay the person who was the holder of the plant breeder's right in question immediately prior to the date referred to in subsection (1) (a), such compensation as may be agreed upon or, failing agreement, as may be settled by arbitration.

### Section 32

#### Alteration of denomination

(1) The denomination approved in respect of a new variety may be altered or supplemented by the registrar -

- 
- (a) if ordered by the court on the application of a person who in law has a preferent claim to the use of the designation in question;
  - (b) on the application of the holder of a plant breeder's right in that variety;
  - (c) if the information submitted to the registrar in the application for the approval of, or in connection with, the denomination in question was incorrect and the registrar is of the opinion that such denomination would not have been approved had he known that such information was incorrect; or
  - (d) if information comes to light which, if discovered earlier, would in the opinion of the registrar have resulted in the refusal of such denomination.
- (2) An application referred to in subsection (1)(b) shall be made to the registrar in the form and manner prescribed and shall be accompanied by the prescribed application fee.
- (3) If an alteration or supplementation becomes necessary on a ground referred to in paragraph (c) or (d) of subsection (1), the registrar shall in writing inform the holder of the relevant plant breeder's right thereof and give the grounds on which the alteration or supplementation is deemed necessary, and such holder shall submit proposals for an alteration or supplementation within 60 days from the date of the notice to him.
- (4) If the registrar intends approving any proposal for the alteration or supplementation of a denomination under subsection (1)(b) or (3), he shall by notice in the Gazette publish such particulars relating to the intended alteration or supplementation as may be prescribed.
- (5) Any person may within the prescribed period, on payment of the prescribed fee, in the prescribed manner lodge an objection to the grant of such alteration or supplementation.
- (6) The registrar may, after considering any objection lodged under subsection (5), approve the proposed alteration or supplementation, and shall by notice in the Gazette publish the prescribed particulars relating to an alteration or supplementation so approved.
- (7) The registrar shall forthwith publish by notice in the Gazette the prescribed particulars relating to an alteration or supplementation ordered under subsection (1)(a).

### Section 33

#### **Termination of plant breeder's right**

- (1) A plant breeder's right shall terminate upon the expiry of the period prescribed in respect thereof under section 21.
- (2) The registrar may terminate a plant breeder's right prior to the termination contemplated in subsection (1), if he is satisfied -
  - (a) that any information submitted to him in the application for such a right or in connection with such an application, was incorrect and that such a right would not have been granted if he had known that the information was incorrect;
  - (b) that information has come to light which, if discovered earlier, would have resulted in the right being refused;
  - (c) that priority should be given under section 8 to any other application for the grant of a plant breeder's right in the same variety;



- (d) that the holder of the right refuses or has failed or is not in a position to furnish the registrar with propagating material of the relevant variety which conforms to the requirements of paragraph (a) of section 24(1);
- (e) that the holder of the right has failed to comply with any request under paragraph (b) of section 24(1), or that he has prevented the registrar from undertaking an inspection referred to in section 24(2);
- (f) that the holder of the right refuses or has failed or is not in a position to submit a proposal for an alteration or a supplementation of a denomination after having been requested to do so under section 32(3);
- (g) that the annual fee under section 22 was not paid within the time referred to in that section.
- (3) The registrar shall in writing advise the holder of the plant breeder's right in question and the holder of any licence issued under section 27 or with respect to which a notification has been given under section 25(3), of his intention to terminate a plant breeder's right under subsection (2) and of the grounds therefor.
- (4) Any holder referred to in subsection (3) may, within the prescribed period, in the prescribed manner and on payment of the prescribed fee lodge an objection against the intended termination of a plant breeder's right.
- (5) The provisions of sections 18(1), (2), (3), (4), (5) and (6) shall mutatis mutandis apply with reference to such an objection.
- (6) The registrar shall publish the termination under subsection (1) or (2) of a plant breeder's right by notice in the Gazette.
- (7) A certificate of registration issued under paragraph (a) of section 20(2) shall, within the prescribed period, be returned to the registrar by the holder thereof when the relevant plant breeder's right terminates or is terminated under this section.

#### Section 34

##### **Voluntary surrender of plant breeder's right**

- (1) The holder of a plant breeder's right may at any time notify the registrar in the prescribed manner and upon payment of the prescribed fee that he is surrendering such right, and such holder shall furnish the registrar with proof that a copy of such notification has been served on any person licensed with respect to that right and on any other interested person.
- (2) The registrar shall by notice in the Gazette publish such particulars relating to the surrender as may be prescribed.

#### Section 35

##### **Marking of labels or containers**

- (1) If any propagating material of a variety in respect of which a plant breeder's right has been granted is sold for purposes of propagation, the denomination of that variety shall clearly and legibly appear on a label attached thereto, or, if it is packed, on the container.
- (2) If a mark is used in conjunction with the name of the relevant variety, such mark and name shall be clearly distinguishable.

### Section 36

#### Correction of errors

- (1) The registrar may authorize -
  - (a) the correction of any clerical error or error in translation appearing in any plant breeder's right, the application for such a right or any document filed in pursuance of such an application, or the register;
  - (b) the amendment of any document for the amendment of which no express provision is made in this Act;
  - (c) the condonation or correction of any irregularity in procedure in any proceedings before him, if such condonation or correction is not detrimental to the interests of any person.
- (2) The registrar may exercise the authority under subsection (1) mero motu or upon request in writing.
- (3) Where the registrar intends exercising his authority under subsection (1) mero motu, he shall give notice of his intention to the holder of the plant breeder's right or the applicant for such right, as the case may be, and to any other person who appears to him to have an interest in the matter, and shall give such holder, applicant or person an opportunity of being heard before exercising his authority.

### Section 37

#### Discretionary power of registrar

- (1) (a) Whenever any discretionary power is given to the registrar by this Act he shall not exercise that power in a manner adverse to an applicant or an objector or other person who according to the register appears to be an interested party, without giving such applicant, objector or interested person an opportunity of being heard within the time prescribed or, of no time has been prescribed, within such reasonable period as shall be fixed by the registrar.
  - (b) An applicant, objector or other interested person referred to in paragraph (a) may waive the right to be heard.
- (2) Whenever by this Act any time is specified within which any act or thing is to be done, the registrar may, save where it is expressly otherwise provided, extend the time either before or after its expiration.

### Section 38

#### Defect in form not to invalidate documents

A defect in the form of any document which is in terms of any law required to be executed in a specific manner, or in a notice issued in terms of this Act, shall not render unlawful an administrative action executed in respect of the matter to which such document or notice relates, and shall not be a ground for exception to any legal procedure which may be taken in respect of such matter, if the requirements and meaning thereof are substantially and intelligibly set forth.

### Section 39

#### Preservation and proof of documents

- (1) All documents lodged with the registrar in connection with plant breeders' rights and any application for such rights shall, subject to the provisions of subsection (3), be preserved for the prescribed period.

(2) Any document referred to in subsection (1) which in the opinion of the registrar may lie for inspection by the public, shall upon payment of the prescribed fees be open for inspection during office hours at the office of the registrar, and copies thereof shall on request and upon payment of the prescribed fees be furnished to any person.

(3) Where an application for the grant of a plant breeder's right has been withdrawn, the registrar shall return all the papers submitted in connection with the application, to the applicant at the address indicated in the application or, if this is not practicable, destroy them after expiry of the prescribed period.

(4) The provisions of section 5(3) shall mutatis mutandis apply with reference to all documents lodged with the registrar.

#### Section 40

##### **Secrecy**

No person shall, except -

- (a) for the purpose of carrying out his duties or the performance of his functions under this Act;
- (b) for the purposes of legal proceedings under this Act or any other law; or
- (c) when required to do so by any court or under any law,

disclose any information acquired by him in the carrying out of his duties or the performance of his functions under this Act in relation to any new variety for which an application for the grant of a plant breeder's right has been made or in respect of which such right has been granted, or in relation to the business affairs of an applicant or the holder of such right.

#### Section 41

[Repealed by Amendment Act 5/1980]

#### Section 42

##### **Appeal against decision or action of the registrar**

(1) A person who feels aggrieved by any decision or action taken by the registrar in terms of this Act may, within the period and in the manner prescribed and upon payment of the prescribed fees, appeal to the Minister against the decision or action in question.

- (2) (a) The Minister shall refer the appeal for investigation and decision to a board the members of which shall be appointed by the Minister and which shall consist of -
  - (i) one person designated as chairman on account of his knowledge of law;
  - (ii) two persons who in the opinion of the Minister have expert knowledge of the subject of the appeal.
- (b) A person appointed under subparagraph (ii) of paragraph (a) shall be disqualified as a member of the board if he has any direct or indirect personal interest in the outcome of the appeal.
- (3) (a) The provisions of sections 18(1), (3), (4) and (5) shall mutatis mutandis apply with reference to an appeal.

- (b) The registrar shall be entitled to be represented at an appeal by an advocate or an attorney or by a patent agent registered under section 89 of the Patents Act, 1952 (Act 37 of 1952).
- (4) If a person appointed under subsection (2) (a) -
- (a) dies during the investigation of the appeal or so soon before the commencement of the investigation that the vacancy cannot be filled in time;
  - (b) is unable to act and another person cannot be appointed in time; or
  - (c) is, after the investigation has commenced, unable to continue therewith,
- the parties may agree that the investigation be continued by the remaining members, in which event, where the member who has died or has become incapacitated was or is the chairman of the board, the Minister shall designate one of the remaining members to act as chairman.
- (5) (a) If the parties do not agree under subsection (4), the investigation shall be adjourned in order that the Minister may appoint a member, in accordance with the requirements of subsection (2) (a), in the place of the member who has died or has become incapacitated.
- (b) Where an appointment has been made under paragraph (a), the investigation shall, if the parties so agree, be continued as from the stage at which the investigation was interrupted by the death or incapacitation of a member, or shall, if the parties do not so agree, be commenced de novo.
- (6) The board may after investigation of the appeal -
- (a) confirm, set aside or vary the relevant decision or action of the registrar;
  - (b) order the registrar to execute the decision of the board in connection therewith.
- (7) (a) The decision of the board shall be in writing, and a copy thereof shall be furnished to the registrar, the appellant and any other party.
- (b) No appeal shall lie against the decision of the board.
- (8) If the board sets aside any decision or action by the registrar, the prescribed fees paid by the appellant in respect of the appeal in question shall be refunded to him, or, if the board varies any such decision or action, it may in its discretion direct that the whole or any part of such fees be refunded to the appellant.

#### Section 43

##### **Common knowledge of new variety in certain circumstances not to frustrate plant breeder's right**

- (1) The grant of a plant breeder's right shall not be refused and such right shall not be terminated prior to the expiry thereof if the applicant for or the holder of such right, in pursuance of allegations that the new variety in respect of which such right has been applied for or granted was at the time of the application for the grant of such right generally known or that the existence thereof was a matter of common knowledge, proves -
- (a) that the cultivation of the new variety had been undertaken only for the purposes of tests and trials with a view to the technical evaluation thereof;

- (b) that the inclusion of such variety in an official list of varieties or an application for such inclusion which is under consideration or the inclusion of such variety in a reference collection, arises from the results of tests and trials referred to in paragraph (a);
  - (c) that the exhibition thereof at an exhibition or a reading of a paper in connection therewith before an audience or the publication of such paper or other technical information in connection therewith, arises from the results of tests and trials referred to in paragraph (a); or
  - (d) that anything referred to in paragraph (a), (b) or (c) was done by another person without his prior authority or consent.
- (2) Notwithstanding the provisions of subsection (1), the registrar may reject the proof referred to in that subsection if he is satisfied that the applicant or holder in question failed to take all reasonable steps to protect his rights within a reasonable time -
- (a) in the case of the cultivation referred to in subsection (1)(a), after the commencement of such cultivation; or
  - (b) in the case of subsection (1)(d), after the act in question by such other person was first brought to his notice.

#### Section 44

##### Regulations

- (1) The Minister may make regulations -
- (a) prescribing any certificate or other document or form to be issued or used for the purposes of this Act;
  - (b) prescribing the fees payable in respect of any application, matter or document;
  - (c) prescribing the scale of remuneration which shall be paid to a person appointed in terms of section 18(2);
  - (d) prescribing the scale of remuneration which shall be paid to any member of a board appointed in terms of section 42(2);
  - (e) prescribing the information and facilities to be provided to the registrar by an applicant for a plant breeder's right, and the reproductive material to be submitted at the time of an application and thereafter;
  - (f) prescribing the tests, trials, examinations and other steps to be taken by an applicant or the registrar before a plant breeder's right may be granted, and the time within which they are to be taken;
  - (g) prescribing the records relating to reproductive material for sale, multiplication or export to be kept by any person who has such material in his possession or under his control, the form and manner in which they are to be kept, and how and to whom they shall be available for inspection;
  - (h) concerning any matter which in terms of this Act is required or permitted to be prescribed; and
  - (i) concerning, generally, any matter which he considers necessary or expedient to prescribe in order that the objects and purposes of this Act may be better achieved, the generality of the powers conferred by this paragraph not being limited by the provisions of the preceding paragraphs.
- (2) Different regulations may be made in terms of this section in respect of different classes or groups of plants or in respect of different kinds of plants or in such other respects as the Minister may determine.

(3) The regulations may in respect of any contravention thereof or failure to comply therewith prescribe a penalty not exceeding a fine of two hundred rand or imprisonment for a period not exceeding six months.

(4) A regulation prescribing any fees shall be made only after consultation with the Minister of Finance.

#### Section 45

##### Offences and penalties

(1) Any person -

- (a) who makes a false entry in the register or causes it to be made therein, or who makes a writing or causes a writing to be made which falsely purports to be a copy of an entry in the register or of a document lodged with the registrar, or who produces or tenders or causes to be produced or tendered as evidence any such entry or any such copy;
- (b) who, for the purpose of deceiving the registrar or any officer in the administration of any provision of this Act, or who, for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder, makes a false statement or representation knowing it to be false;
- (c) who obstructs or hinders the registrar or any officer in the exercise of his powers or the carrying out of his functions under this Act;
- (d) who, having been duly summoned to appear at any proceedings under this Act, fails without lawful excuse so to appear;
- (e) who, having appeared as a witness at any proceedings under this Act, refuses without lawful excuse to be sworn or to make affirmation or to produce any document or answer any question which he may be lawfully required to produce or answer;
- (f) who falsely represents that propagating material sold by him for the purpose of propagation or multiplication is propagating material of a variety in respect of which a plant breeder's right has been granted under this Act, or that the propagating material originates from such a variety;
- (g) who, at the sale of propagating material for the purpose of propagation or multiplication, uses a denomination therefor which is different from the denomination registered in terms of this Act for the variety in question or uses the registered denomination of another variety of the same kind of plant or uses a denomination which corresponds so closely to a registered denomination that it is misleading;
- (h) who fails to comply with an undertaking referred to in paragraph (b) of section 14(2);
- (i) who, except in the circumstances referred to in section 40, discloses information acquired by him in the course of his duties or in the performance of his functions under this Act,

shall be guilty of an offence and liable on conviction -

- (i) in the case of a contravention referred to in paragraph (a) or (b), to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment; or
- (ii) in the case of a contravention referred to in paragraph (c), (d), (e), (f), (g), (h) or (i), to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(2) Notwithstanding anything to the contrary in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

#### Section 46

##### Prohibition of trafficking by officers

(1) The registrar, or an officer who under the delegation, control or direction of the registrar exercises the powers, performs the functions and carries out the duties assigned to or imposed upon the registrar under this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding one year -

- (a) if he buys, sells, acquires or traffics in any plant breeder's right or an interest therein;
- (b) if he acquires, otherwise than in the course of his duties, or sells any propagating material of a variety in respect of which a plant breeder's right has been granted or applied for.

(2) Any purchase, sale, acquisition or assignment of any plant breeder's right by or to the registrar or any such officer shall be of no force and effect.

(3) Any reproductive material acquired by the registrar or such an officer shall be forfeited to the State.

(4) Nothing in this section contained shall apply to the breeder of a new variety of a plant or to any acquisition by bequest or devolution in law.

#### Section 47

##### Compensation in respect of infringement of plant breeder's right

(1) The holder of a plant breeder's right may upon proof of an infringement of that right and without proof of damages which might arise from such infringement, recover by action in any competent court from the person who infringed the right compensation in respect of such infringement in an amount not exceeding five hundred rand.

(2) An action under subsection (1) shall be available to the holder in lieu of any action for damages in any amount which might arise from the relevant infringement.

(3) An action referred to in subsection (1) or (2) shall not be instituted while the relevant plant breeder's right or variety is the subject of -

- (a) an objection which in terms of this Act is to be determined by the registrar; or
- (b) an appeal which in terms of section 42 is to be decided by the board.

#### Section 48

##### Assignment of powers and duties by Minister

The Minister may either generally or in any particular case or in relation to particular property assign to any officer of the department any power conferred or duty imposed upon him under this Act, other than a power referred to in section 31 or 44.

#### Section 49

##### Limitation of liability

No compensation shall be payable by the State, the Minister, the registrar or an officer in respect of any act done in good faith under this Act.

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### Section 50

#### Patents granted in respect of plants under Act 37 of 1952

(1) A patent granted with reference to a plant under the Patents Act, 1952, before the commencement of this Act shall not be liable to revocation except upon some ground on which it would have been liable to be revoked in terms of the provisions of that Act and shall, unless it is so revoked, expire on the date on which it would have expired in terms of the provisions of that Act if the said provisions had continued to be applicable to plants, and all fees payable in respect of any such patent shall continue to be payable as if this Act had not been passed.

(2) Any application for a patent in respect of a plant which was received by the registrar of patents before the commencement of the Plant Breeders' Rights Act, 1964 (Act 22 of 1964), but which was not disposed of prior to the commencement of that Act, or any such application which was received by the registrar of patents within 12 months after the coming into operation of that Act and to which the provisions of section 95 of the Patents Act, 1952, are applicable, shall be dealt with in all respects as if this Act had not been passed, and the provisions of subsection (1) shall mutatis mutandis apply with reference to any plant patent granted in respect of any such application.

### Section 51

#### Plant breeder's rights granted in terms of Act 22 of 1964

(1) A final or provisional plant breeder's right granted in terms of the provisions of the Plant Breeders' Rights Act, 1964, before the commencement of this Act, shall be deemed to be a plant breeder's right granted under this Act, and every provision of this Act, other than the provisions of section 22, shall mutatis mutandis apply with reference to any such plant breeder's right.

(2) Any application for a plant breeder's right which was received by the registrar before the commencement of this Act but in respect of which a final plant breeder's right was not granted under section 15 of the Plant Breeders' Rights Act, 1964, before such commencement, shall be dealt with in all respects as if this Act had commenced on the date of receipt of such application.

### Section 52

#### Repeal of laws

The Plant Breeders' Rights Act, 1964 (Act 22 of 1964), and the Plant Breeders' Rights Amendment Act, 1969 (Act 72 of 1969), are hereby repealed.

### Section 53

#### Short title and commencement

This Act shall be called the Plant Breeders' Rights Act, 1976, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.



**Federal Republic of Germany and the Netherlands**

The Administrative Agreement providing for cooperation in the examination of plant varieties for distinctness, homogeneity and stability concluded between the Bundessortenamt (Federal Office of Plant Varieties - BSA) of the Federal Republic of Germany and the Minister of Agriculture and Fisheries of the Netherlands (see UPOV Newsletter No. 9, page 30 and No. 18, page 9) was extended with effect from February 1, 1983, to Elm and the Orchids, which will be examined by the Dutch authorities on behalf of the BSA. The taxa now covered by this agreement are listed below.

1. Taxa whose varieties will be examined by the Federal Republic of Germany

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Apium graveolens</i> L. var. <i>rapaceum</i> (Mill.) Gaud.	Celeriac	Céleri-rave	Knollensellerie
<i>Arrhenatherum elatius</i> (L.) Beauvois ex J.S. et K.B. Presl	Tall Oatgrass, False Oatgrass	Fromental, Avoine élevée	Glatthafer
<i>Begonia-Elatior-Hybridi</i>	Elatior Begonia	Bégonia elatior	Elatior-Begonie
<i>Brassica napus</i> L. emend. Metzger var. <i>napobrassica</i> (L.) Rchb.	Swede	Chou-navet, Rutabaga	Kohlrübe
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>gongylodes</i> L.	Kohlrabi	Chou-rave	Kohlrabi
<i>Fragaria</i> L.	Strawberry	Fraisier	Erdbeere
<i>Kalanchoë</i> Adans.	Kalanchoë	Kalanchoë	Kalanchoë
<i>Lupinus albus</i> L.	White Lupin	Lupin blanc	Weisslupine
<i>Lupinus angustifolius</i> L.	Blue Lupin	Lupin bleu	Blaue Lupine
<i>Lupinus luteus</i> L.	Yellow Lupin	Lupin jaune	Gelbe Lupine
<i>Populus</i> L.	Poplar	Peuplier	Pappel
<i>Raphanus sativus</i> L. var. <i>niger</i> (Mill.) S. Kerner	Black Radish	Radis d'été, d'automne et d'hiver	Rettich
<i>Rhododendron</i> L.	Rhododendron, Azalea	Rhododendron, Azalée	Rhododendron, Azalee
<i>Ribes</i> L.	Currants, Gooseberry, except ornamental varieties	Cassis, Groseilliers, sauf variétés ornementales	Johannisbeere, Stachelbeere, ausser Ziersorten
<i>Ribes nigrum</i> L.	Black Currant	Cassis	Schwarze Johannisbeere
<i>Ribes niveum</i> Lindl.	White currant	Groseillier blanc	Weisse Johannisbeere
<i>Ribes sylvestre</i> (Lam.) Mert. et W. Koch	Red Currant	Groseillier rouge	Rote Johannisbeere
<i>Ribes uva-crispa</i> L.	Gooseberry	Groseillier à maquereau	Stachelbeere
<i>Saintpaulia</i> H. Wendl.	African Violet	Saintpaulia	Usambaraveilchen
<i>Salix</i> L.	Willow	Saule	Weide
<i>Secale cereale</i> L.	Rye	Seigle	Roggen

2. Taxa whose varieties will be examined by the Netherlands

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Alstroemeria-Hybridi</i>	Alstroemeria	Alstroèmère, Lis des Incas	Inkalilie
<i>Agrostis canina</i> L.	Velvet Bent	Agrostide des chiens	Hundsstraussgras
<i>Agrostis gigantea</i> Roth	Red Top (Black Bent)	Agrostide blanche, Agrostide géante	Weisses Straussgras
<i>Agrostis stolonifera</i> L.	Creeping Bent	Agrostide blanche, Agrostide stolonifère	Flechtstraussgras
<i>Agrostis tenuis</i> Sibth.	Brown Top, Common Bent	Agrostide commune	Rotes Straussgras

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Anthurium spec.	Anthurium	Anthurium	Flamingoblume
Brassica rapa L. emend. Metzg. var. rapa	Turnip	Navet	Herbstrübe, Mairübe
Cymbidium Sw.	Cymbidium	Cymbidium	Cymbidium
Cynosurus cristatus L.	Crested Dog's Tail	Crételle	Kammgras
Dianthus-Caryophyllus-Hybridi	Carnation	Oeillet	Nelke
Freesia-Hybridi	Freesia	Freesia	Freesia
Gerbera Cass.	Gerbera	Gerbera	Gerbera
Orchidaceae Juss.	Orchids	Orchidées	Orchideen
Streptocarpus Lindl.	Streptocarpus	Streptocarpus	Drehfrucht
Ulmus L.	Elm	Orme	Ulme

CALENDAR
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1983

UPOV Meetings

September 21 to 23 Rome (Italy)	Technical Working Party for Fruit Crops (Subgroup on September 20)
September 27 to 29 Conthey (Switzerland)	Technical Working Party for Ornamental Plants and Forest Trees
October 3 and 4	Technical Committee
October 11	Consultative Committee
October 12 to 14	Council
November 7 and 8	Administrative and Legal Committee
November 9 and 10	Meeting with International Organizations

Meetings of Other International Organizations

November 7 to 11 Quito (Ecuador)	Tenth Panamerican Seeds Seminar
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The International Union for the Protection of New Varieties of Plants (UPOV)--an international organization established by the International Convention for the Protection of New Varieties of Plants--is the international forum for States interested in plant variety protection. Its main objective is to promote the protection of the interests of plant breeders--for their benefit and for the benefit of agriculture and thus also of the community at large--in accordance with uniform and clearly defined principles.

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