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# PLANT VARIETY PROTECTION

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

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GAZETTE

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AMENDMENT OF LEGAL PROVISIONS

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Australia

By virtue of the Primary Industries and Energy Legislation Amendment Act (No. 2) 1989 (No. 15 of 1990), which entered into force on January 17, 1990, the scope of protection has been extended to the asexual production of plants or reproductive materials of plants of the protected variety for the commercial production of the fruit, flowers, or any other product, of those plants (Subsection 12(1)).

By virtue of the Primary Industries and Energy Legislation Amendment Act 1990 (No. 134 of 1990), which entered into force on December 28, 1990, the following amendments have been incorporated:

(i) the definition of "breeding" has been enlarged by mentioning explicitly that a person who selects a plant variety from a plant population that the person has grown is taken to have originated that variety (subsection 1(3A));

(ii) provisions for priority rights to be granted to a breeder who applies for the protection of a variety in Australia on the basis of an earlier application relating to the same variety in one of the member States of UPOV, have been added (Section 17A);

(iii) by repealing Paragraph 22(2)b, varieties can now be commercialized prior to rights being granted and still retain provisional protection;

(iv) for plant varieties originated outside Australia, new provisions have been incorporated requiring the Australian authorities to accept the result of a growing test effected outside Australia (under an agreement between Australia and the country in which the growing test was effected) (Paragraph 23(aa)).

A consolidated text of the Plant Variety Act 1987, as amended by the Primary Industries and Energy Legislation Amendment Act 1988 (Number 111 of 1988), Amendment Act (No. 2) 1989 (Number 15 of 1990), and Amendment Act 1990 (Number 134 of 1990) is reproduced in the Legislation subsection of this issue, starting at page 37.

Netherlands

By virtue of the Royal Decree of July 26, 1991 (Staatsblad 1991, No. 429) amending the Plant Breeders' Rights Order of 1990, the duration of protection has been extended to

- 30 years for varieties of apple, cherry, common ash, elm, false acacia, pear, plum, poplar, willow and
- 25 years for varieties of all the other taxa,

with effect from September 18, 1991.

## EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES

Belgium

By virtue of the Royal Decree of May 12, 1991, Determining 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 June 21, 1991), protection was extended to the following with effect from June 22, 1991 (the Latin, French and Flemish 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) with the duration of protection mentioned in the right column.

It should be noted that, pursuant to Article 49 of the said Law, applications that relate to varieties of recent creation and which 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 June 22, 1992.

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Abutilon Mill.	Abutilon	Abutilon	Abutilon	Abutilon	20
Achillea L.	Achillea	Achillée	Milfoil, Yarrow	Schafgarbe	20
Aconitum L.	Monnikskap	Aconit	Monkshood	Eisenhut	20
Actinidia chinensis Planch.	Kiwi	Actinidia, Groseille de Chine	Kiwifruit	Kiwifrucht	20
Ageratum L.	Ageratum	Ageratum	Ageratum, Flossflower	Leberbalsam	20
Allium ascalonium L.	Sjalot	Echalotte	Shallot	Schalotte	20
Allium giganteum Regel	Sierui	Oignon géant	Giant Allium	-	20
Allium porrum L.	Prei	Poireau	Leek	Lauch	20
Allium schoeno- prasm L.	Bieslook	Ciboulette	Chives, Asatsuki	Schnittlauch	20
Amelanchier Medik.	Krenteboom	Amélanchier	SERVICEberry, Snowy Mespilus	Felsenbirne	20
Anemone L.	Anemoon	Anémone	Anemone	Anemone, Windröschen	20

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\* Duration of protection

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Anethum graveolens L.	Dille	Aneth	Dill	Dill	20
Anigozanthos Labill.	Kangoeroepoot	Anigozanthos	Kangaroo Paw	Känguruhblume	20
Anthriscus cerefolium (L.) Hoffm.	Kervel	Cerfeuil	Chervil	Kerbel	20
Asparagus officinalis L.	Asperge	Asperge	Asparagus	Spargel	20
Aster L.	Aster	Aster	Aster, Michaelmas Daisy	Aster	20
Astilbe Buch.-Ham. ex D. Don	Astilbe	Astilbe, Hoteia	Astilbe	Astilbe, Prachtspiere	20
Begonia semper-florens-cultorum Krauss	Begonia Semperflorens	Bégonia semperflorens	Perpetual Begonia	Immerblühende Begonie	20
Betula L.	Berk	Bouleau	Birch	Birke	25
Borago L.	Bernagie	Bourrache	Borage	Boretsch	20
Bougainvillea Comm.	Bougainvillier	Bougainvillier	Bougainvillea	Bougainvillea	20
Brassica napus L. ssp. oleifera (Metzg.) Sinsk	Bladkool, Koolzaad	Colza fourrager d'hiver, Colza à l'huile	Swede Rape, Oilseed Rape	Raps	20
Brassica oleracea L. convar. botrytis (L.) Alef. var. cymosa Duch.	Broccoli	Broccoli (à jets)	Broccoli	Brokkoli	20
Brassica rapa L. var. silvestris (Lam.) Briggs	Raapzaad	Navette	Turnip rape	Rübsen	20
Bromus catharticus Vahl	Paardegras	Brome de Schrader	Rescue Grass	Horntrespe	20
Buddleja L.	Herfstsering, Buddleia	Buddleia	Buddleia, Butterfly-bush	Buddleie, Schmetterlingsstrauch	20
Callistephus chinensis (L.) Nees	Zomeraster	Aster, Aster de Chine, Reine-marguerite	China Aster	Sommeraster	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Calluna Salisb.	Struikheide	Bruyère, Callune	Heather, Ling	Besenheide	20
Carum carvi L.	Karwij	Carvi, Cumin des prés	Caraway	Kümmel	20
Celosia L.	Hanekam	Célosie, Crête de coq	Cockscomb	Hahnenkamm, Federbusch- Celosie	20
Chaenomeles Lindl.	Japanse dwerg-kwee	Cognassier du Japon	Flowering Quince	Japanische Quitte	25
Chamaecyparis Spach	Dwergcipres	Chamaecyparis	Chamaecyparis	Schein- zypresse	25
Chrysanthemum frutescens L.	Struikmargriet	Marguerite	Marguerite, Paris Daisy	Strauch- margerite	20
Cichorium intybus L.	Witloof, Koffie- cichorei, Rood loof, Groen loof	Chicorée amère, Chicon, Chicorée à café, Chicorée rouge, Chicorée verte	(Salad) Chicory, Large-rooted Chicory	Salat- zichorie, Wurzel- zichorie	20
Citrullus lanatus (Thunb.) Matsum. et Nakai	Watermeloen	Pastèque	Watermelon	Wassermelone	20
Clematis L.	Clematis	Clématite	Clematis	Waldrebe	20
Clivia Lindl.	Clivia	Clivia	Clivia, Kaffir-lily	Klivie, Riemenblatt	20
Cordyline Comm. ex. Juss.	Cordyline	Cordyline	Cordyline	Cordyline, Keulenlilie, Keulenbaum	20
Cotoneaster Medik.	Cotoneaster	Cotoneaster	Cotoneaster	Cotoneaster	20
Crocus L.	Crocus	Crocus	Crocus	Krokus	20
Cucumis melo L.	Meloen	Melon	Melon	Melone	20
Cucurbita maxima Duch.	Pompoen	Potiron, Giraumon,	Pumpkin	Riesenkürbis	20
Cucurbita pepo L.	Courgette	Courgette, Pâtisson, Citrouille	Marrow, Courgette, Vegetable Marrow	Gartenkürbis, Zucchini	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
X Cupressocyparis Dallim.	Leyland cipres	Cyprès de Leyland	Leyland Cypress	Leyland Zypresse	25
Cupressus arizonica E. Greene	Arizona cipres	Cyprès de l'Arizone	Arizona-Cypress	Arizona-Zypresse	25
Cupressus dupreziana	Duprez cipres	Cyprès de Duprez	Duprez Cypress	Duprez Zypresse	25
Cupressus sempervirens L.	Echte cipres	Cyprès de Provence	Mediterranean Cypress	Echte Zypresse	25
Cyclamen L.	Cyclamen	Cyclamen	Cyclamen	Alpenveilchen	20
Dahlia Cav.	Dahlia	Dahlia	Dahlia	Dahlie	20
Delphinium L.	Ridderspoor	Pied d'alouette	Delphinium, Larkspur	Rittersporn	20
Dieffenbachia Schott	Dieffenbachia	Dieffenbachia	Dieffenbachia	Dieffenbachia	20
Dizygotheca N.E. Br.	Fijnbladige vingerplant	Dizygotheca	Dizygotheca	Fingeraralia	25
Erica L.	Dopheide	Bruyère	Heath	Glockenheide	20
Eryngium L.	Kruisdistel	Panicaut	Eryngo	Edeldistel, Mannstreu	20
Exacum L.	Exacum	Exacum	Exacum	Exacum	20
Festuca arundinacea Schreb.	Rietzwenkgras	Fétuque élevée	Tall Fescue	Rohrschwengel	20
Ficus benjamina L.	Waringin	Ficus benjamina	Benjamin Tree	-	20
Forsythia Vahl	Chinees klokje, Forsythia	Forsythia	Forsythia, Golden Bell	Forsythie, Goldflieder, Goldglöckchen	20
Fraxinus excelsior L.	Es	Frêne élevé	Ash	Esche	25
Fuchsia magellanica Lam. var. macrostemma (Ruiz et Pav.) Munz	Fuchsia	Fuchsia arbustrif	Fuchsia	Fuchsie	20
Gentiana L.	Gentiaan	Gentiane	Gentian	Enzian	20
Gloriosa L.	Gloriosa	Gloriosa	Gloriosa	Gloriosa	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Gypsophila L.	Gipskruid	Gypsophile	Gyp, Gypsophila, Baby's Breath	Gipskraut, Schleierkraut	20
Helianthus annuus L.	Zonnebloem	Tournesol, Soleil	Common Sunflower	Sonnenblume	20
Helleborus L.	Kerstroos	Hellébore, Rose de Noël	Hellebore, Christmas Rose, Lenten Rose	Nieswurz, Schneerose, Christusrose	20
Ilex L.	Hulst	Houx	Holly	Ilex, Stechpalme	25
Kohleria Regel	Kohleria	Kohleria	Kohleria	Kohleria	20
Lepidium sativum L.	Tuinkers	Cresson alénois	Cress	Gartenkresse	20
Liatris Gaertn. ex Schreb.	Liatris	Liatris	Liatris, Blazing Star, Gayfeather	Prachtscharte	20
Lobelia L.	Lobelia	Lobélie	Lobelia, Cardinal Flower	Lobelie	20
Mahonia Nutt.	Mahonia	Mahonia	Mahonia	Mahonie	20
Malus Mill.	Appel, onder stammen en sierrassen inbegrepen	Pommier, y compris les portegreffes et variétés ornementales	Apple, inclu- ding root- stocks and ornamental varieties	Apfel, ein- schliesslich Unterlagen und Ziersorten	25
Marantaceae Petersen	Maranta- achtigen	Marantacées	Marantaceae	Maranten- gewächse	20
Matthiola R. Br. corr. Spreng.	Violier	Giroflée	Stock	Levkoje	20
Narcissus L.	Narcis	Narcisse, Jonquille	Narcissus, Doffofil, Jonquil	Narzisse	20
Oenothera L.	Teunisbloem	Onagre	Oenothera, Evening Primrose	Nachtkerze	20
Papaver somni- ferum L.	Blauwmaanzaad	Oeillette, Pavot	Opium Poppy	Mohn	20
Petroselinum crispum (Mill.) Nym. ex A.W. Hill	Peterselie	Persil	Parsley	Petersilie	20
Petunia Juss.	Petunia	Pétunia	Petunia	Petunie	20



<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Philodendron Schott corr. Schott	Philodendron	Philodendron	Philodendron	Philodendron	20
Phlox L.	Vlambloem	Phlox	Phlox	Phlox, Flammenblume	20
Potentilla fruticosa L.	Potentilla	Potentille ligneuse	Shrubby Cinquefoil	Fingerstrauch	20
Primula L.	Sleutelbloem	Primevère	Auricula, Oxlip, Cows- lip, Primrose	Primel, Schlüsselblume	20
Prunus L.	Kers, pruim, abrikoos, kerspruim, perzik: voor deze soorten onderstammen en sierrassen enbegrepen	Cerisier, prunier, abricotier, myrobolan, pêcher: pour ces espèces y compris les porte-greffes et variétés ornementales	Cherry, Plum, Abricot, Myro- balan, Peach: including rootstock and ornamental varieties for these species	Kirsche, Aprikose, Myrobalane, Pfirsisch: einschliesslich Unterlagen und Ziersorten für diese Arten	25
Prunus lauro- cerasus L.	Laurierkers	Laurier- cerise	Cherry-laurel	Kirschlorbeer	25
Pyrus L.	Peer, onder- stammen en sierrassen inbegrepen	Poirier, y compris les portegreffes et variétés ornementales	Pear, inclu- ding root- stocks and ornamental varieties	Birne, ein- schliesslich Unterlagen und Ziersorten	25
Quercus L.	Eik	Chêne	Oak	Eiche	25
Radermachera Zoll. et Mor.	Radermachera	Radermachera	Radermachera	Radermachera	20
Ranunculus L.	Ranonkel	Renoncule	Ranunculus, Buttercup	Hahnenfuss	20
Rheum rhabarbarum L.	Rabarber	Rhubarbe	Rhubarb	Krauser Rharbarber	20
Ribes L.	Zwarte aalbes, witte en rode trosbes, kruisbes en hybriden van deze soorten: sierrassen inbegrepen voor al deze soorten	Cassis, groseilliers blanc et rouge, gro- seillier à maquereau et hybrides de ces espèces: les variétés ornementales y comprises pour toutes ces espèces	Black, Red and White Currants, Gooseberry and hybrids of these species: ornamental varieties included for all these species	Schwarze, Weisse und Rote Johannis- beere, Stachelbeere und Hybriden dieser Arten: Ziersorten für all diese Arten einbe- griffen	25

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Robinia pseudo-acacia L.	Acacia	Robinier faux-acacia	False Acacia	Robinie	25
Rubus L.	Framboos, Braames (fruit en sierrassen)	Framboisier, Ronce (frui- tière et ornementale)	Raspberry, Bramble (fruit and ornamental varieties)	Himbeere, Brombeere (Obst- und Ziersorten)	25
Salvia L.	Salie	Sauge	Sage	Salbei	20
Scabiosa caucasica M.B.	Scabiosa caucasica	Scabiosa caucasica	Scabious	Skabiose	20
Senecio L.	Kruiskruid	Séneçon	Senecio	Kreuzkraut	20
Solanum melongena L.	Aubergine	Aubergine	Eggplant, Aubergine	Eierfrucht, Aubergine	20
Solidago L.	Guldenroede	Verge d'or	Golden Rod	Goldrute	20
Spathiphyllum Schott	Spathiphyllum	Spathiphyllum	Spathiphyllum	Spathiphyllum	20
Symphoricarpos Duham.	Sneeuwbes	Symphorine	Snowberry	Schneebeere	20
Syringa L.	Sering	Lilas	Lilac	Flieder	25
Tagetes L.	Afrikaan Tagetes	Tagète, Oeillet d'Inde, Rose d'Inde	Marigold	Sammetblume	20
Tilia L.	Linde	Tilleul	Lime	Linde	20
Trifolium incarnatum L.	Inkarnaat Klaver	Trèfle incarnat	Crimson Clover	Inkarnatklee	20
Ulmus L.	Iep	Orme	Elm	Ulme	20
Vaccinium corymbosum L.	Bosbes	Myrtille	Blueberry	Kultur- heidelbeere	20
Verbena L.	IJzerhard	Verveine	Vervain	Verbene, Eisenkraut	20
Viburnum L.	Sneeuwbal	Viorne	Snowball Tree	Schneeball	20
Vicia sativa L.	Voederwikke	Vesce commune	Common Vetch	Saatwicke	20
Viola L.	Viooltje	Violette, Pensée	Violet, Pansy	Veilchen, Stiefmütterchen	20
Vitis L.	Wijnstok	Vigne	Vine	Rebe	20
Weigela Thunb. (Diervilla Mill.)	Weigelia	Weigela	Diervilla	Weigelia	20

For *Malus* Mill., *Prunus* L. and *Pyrus* L., protection has been extended to rootstock and ornamental varieties.

For *Ribes* L. and Bramble, protection has been extended to ornamental varieties.

For Hop, Quince and Raspberry, all varieties with exception of ornamental varieties but including rootstock varieties are protected.

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 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 may, on the advice of the Service, and after the 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.

The consolidated list of taxa covered by plant variety protection legislation is given below.

**List of Taxa Covered by Plant Variety Protection Legislation and their Duration of Protection in Belgium (with effect from June 22, 1991)**

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Abutilon Mill.	Abutilon	Abutilon	Abutilon	Abutilon	20
Achillea L.	Achillea	Achillée	Milfoil, Yarrow	Schafgarbe	20
Aconitum L.	Monnikskap	Aconit	Monkshood	Eisenhut	20
Actinidia chinensis Planch.	Kiwi	Actinidia, Groseille de Chine	Kiwifruit	Kiwifrucht	20
Ageratum L.	Ageratum	Ageratum	Ageratum, Flossflower	Leberbalsam	20

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\* Duration of Protection

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
<i>Agrostis canina</i> L.	Kruipend struisgras	Agrostide des chiens	Velvet Bent	Hundsstraussgras	20
<i>Agrostis gigantea</i> Roth	Hoog struisgras	Agrostide géante	Red Top (Black Bent)	Weisses Straussgras	20
<i>Agrostis stolonifera</i> L.	Fioringras	Agrostide stolonifère	Creeping Bent	Flechtstraussgras	20
<i>Agrostis tenuis</i> Sibth.	Gewoon struisgras	Agrostide commune	Brown Top, Common Bent	Rotes Straussgras	20
<i>Allium ascalonium</i> L.	Sjalot	Echalotte	Shallot	Schalotte	20
<i>Allium cepa</i> L.	Ajuin	Oignon	Onion	Zwiebel	20
<i>Allium giganteum</i> Regel	Sierui	Oignon géant	Giant Allium	-	20
<i>Allium porrum</i> L.	Prei	Poireau	Leek	Lauch	20
<i>Allium schoenoprasum</i> L.	Bieslook	Ciboulette	Chives, Asatsuki	Schnittlauch	20
<i>Alstroemeria</i> L.	Incalelie	Alstroemère	Alstroemeria, Herb Lily	Inkalilie	20
<i>Amelanchier</i> Medik.	Krenteboom	Amélanchier	Serviceberry, Snowy Mespilus	Felsenbirne	20
<i>Anemone</i> L.	Anemoon	Anémone	Anemone	Anemone, Windröschen	20
<i>Anethum graveolens</i> L.	Dille	Aneth	Dill	Dill	20
<i>Anigozanthos</i> Labill.	Kangoeroepoot	Anigozanthos	Kangaroo Paw	Känguruhblume	20
<i>Anthriscus cerefolium</i> (L.) Hoffm.	Kervel	Cerfeuil	Chervil	Kerbel	20
<i>Anthurium</i> Schott	Anthurium	Anthurium	Anthurium, Tail Flower	Flamingoblume	20
<i>Apium graveolens</i> L.	Bleekselder, Knolselder	Céleri, Céleri-rave	Celery, Celeriac	Blattsellerie, Knollensellerie	20
<i>Arrhenatherum elatius</i> (L.) P. Beauv. ex J.S. et K.B. Presl	Frans raaigras	Fromental	Tall Oatgrass, False Oatgrass	Glatthafer	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Asparagus officinalis L.	Asperge	Asperge	Asparagus	Spargel	20
Aster L.	Aster	Aster	Aster, Michaelmas Daisy	Aster	20
Astilbe Buch.- Ham. ex D. Don	Astilbe	Astilbe, Hoteia	Astilbe	Astilbe, Prachtspiere	20
Avena byzantina K. Koch	Byzantijnse haver	Avoine d'Algérie	Algerian Oat	Mittelmeer- hafer	20
Avena nuda L.	Naakte haver	Avoine nue	Naked Oat	Nackthafer	20
Avena sativa L.	Haver	Avoine	Oat	Hafer	20
Begonia-Elatior- Hybridi	Elatior- Begonia	Bégonia elator	Elatior Begonia	Elatior- Begonie	20
Begonia semper- florens-cultorum Krauss	Begonia Semperflorens	Bégonia semperflorens	Perpetual Begonia	Immerblühende Begonie	20
Begonia X tuber- hybrida Voss	Knolbegonia	Bégonia tubéreux	Tuberous Begonia	Knollen- begonie	20
Berberis L.	Berberis	Berberis	Berberis, Barberry	Berberitze	20
Betula L.	Berk	Bouleau	Birch	Birke	25
Borago L.	Bernagie	Bourrache	Borage	Boretsch	20
Bougainvillea Comm.	Bougainvillier	Bougain- villier	Bougainvillea	Bougainvillea	20
Brassica napus L. var. napo- brassica (L.) Rchb.	Koolraap onder de grond	Chou-navet	Swede	Kohlrübe	20
Brassica napus L. ssp. oleifera (Metzg.) sink	Bladkool, Koolzaad	Colza fourr- ager d'hiver, Colza à l'huile	Swede Rape, Oilseed Rape	Raps	20
Brassica oleracea L. convar. ace- phala (DC.) Alef. - var. gongy- lodes L.	Raapkool	Chou-rave	Kohlrabi	Kohlrabi	20
- var. medullosa Thell.	Mergkool	Chou moellier	Marrow-stem Kale	Markkohl	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
- var. sabellica L.	Boerenkool	Chou frisé	Curly Kale	Grünkohl	20
- var. viridis L.	Voederkool	Chou fourrager	Fodder Kale	Futterkohl	20
<b>Brassica oleracea</b>					
L. convar. botrytis (L.) Alef.					
- var. botrytis	Bloemkool	Chou-fleur	Cauliflower	Blumenkohl	20
- var. cymosa Duch.	Broccoli	Broccoli (à jets)	Broccoli	Brokkoli	20
<b>Brassica oleracea</b>					
L. convar. capitata (L.) Alef.					
var. capitata L.					
- f. alba DC.	Witte kool	Chou cabus	White Cabbage	Weisskohl	20
- f. rubra (L.) Thell.	Rode kool	Chou rouge	Red Cabbage	Rotkohl	20
<b>Brassica oleracea</b>					
L. convar. capitata (L.) Alef.					
var. sabauda	Savoyekool	Chou de Milan	Savoy Cabbage	Wirsing	20
<b>Brassica oleracea</b>					
L. convar. oleracea var. gemmifera DC.	Spruitkool	Chou de Bruxelles	Brussels Sprouts	Rosenkohl	20
<b>Brassica rapa L.</b>					
var. rapa (L.) Thell.	Raap	Navet	Turnip	Herbstrübe, Mairübe	20
<b>Brassica rapa L.</b>					
var. silvestris (Lam.) Briggs	Raapzaad	Navette	Turnip rape	Rübsen	20
<b>Bromeliaceae.</b>					
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 hybriden	Broméliacées appartenant aux genres et à leurs hybrides mutuels	Bromeliaceae belonging to the genera and to their mutual hybrids	Bromeliaceen, die zu den Gattungen und ihren wechselseitigen Hybriden gehören	20
<b>Bromus catharticus Vahl</b>					
	Paardegras	Brome de Schrader	Rescue Grass	Horntrespe	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Buddleja L.	Herfstsering, Buddleia	Buddleia	Buddleia, Butterfly- bush	Buddleie, Schmetter- lingsstrauch	20
Callistephus chinensis (L.) Nees	Zomeraster	Aster, Aster de Chine, Reine- marguerite	China Aster	Sommeraster	20
Calluna Salisb.	Struikheide	Bruyère, Callune	Heather, Ling	Besenheide	20
Capsicum annuum L.	Spaanse peper	Piment	Sweet Pepper, Capsicum, Chili	Paprika	20
Carum carvi L.	Karwij	Carvi, Cumin des prés	Caraway	Kümmel	20
Celosia L.	Hanekam	Célosie, Crête de coq	Cockscomb	Hahnenkamm, Federbusch- Celosie	20
Chaenomeles Lindl.	Japanse dwergkwee	Cognassier du Japon	Flowering Quince	Japanische Quitte	25
Chamaecyparis Spach	Dwergcipres	Chamaecyparis	Chamaecyparis	Schein- zyppresse	25
Chrysanthemum L.	Chrysant, Struikmargriet	Chrysanthème, Marguerite	Chrysanthemum, Marguerite, Paris Daisy	Chrysantheme, Strauch- margerite	20
Cichorium endivia L.	Andijvie	Chicorée frisée, Scarole	Endive	Winterendivie	20
Cichorium intybus L.	Witloof, Koffie- cichorei, Rood loof, Groen loof	Chicorée amère, Chicon, Chicorée à café, Chicorée rouge, Chicorée verte	(Salad) Chicory, Large-rooted Chicory	Salat- zichorie, Wurzel- zichorie	20
Citrullus lanatus (Thunb.) Matsum. et Nakai	Watermeloen	Pastèque	Watermelon	Wassermelone	20
Clematis L.	Clematis	Clématite	Clematis	Waldrebe	20
Clivia Lindl.	Clivia	Clivia	Clivia, Kaffir-lily	Klivie, Riemenblatt	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Cordyline Comm. ex. Juss.	Cordyline	Cordyline	Cordyline	Cordyline, Keulenlilie, Keulenbaum	20
Cotoneaster Medik.	Cotoneaster	Cotoneaster	Cotoneaster	Cotoneaster	20
Crocus L.	Crocus	Crocus	Crocus	Krokus	20
Cucumis melo L.	Meloen	Melon	Melon	Melone	20
Cucumis sativus L.	Komkommer, Augurk	Concombre, Cornichon	Cucumber, Gherkin	Salatgurke, Essiggurke	20
Cucurbita maxima Duch.	Pompoen	Potiron, Giraumon,	Pumpkin	Riesenkürbis	20
Cucurbita pepo L.	Courgette	Courgette, Pâtisson, Citrouille	Marrow, Courgette, Vegetable Marrow	Gartenkürbis, Zucchini	20
X Cupressocyparis Dallim.	Leyland cipres	Cyprès de Leyland	Leyland Cypress	Leyland Zypresse	25
Cupressus ari- zonica E. Greene	Arizona cipres	Cyprès de l'Arizone	Arizona- Cypress	Arizona- Zypresse	25
Cupressus dupreziana	Duprez cipres	Cyprès de Duprez	Duprez Cypress	Duprez Zypresse	25
Cupressus sempervirens L.	Echte cipres	Cyprès de Provence	Mediterranean Cypress	Echte Zypresse	25
Cyclamen L.	Cyclamen	Cyclamen	Cyclamen	Alpenveilchen	20
Cydonia Mill.	Kweeper	Cognassier	Quince	Quitte	25
Cynosurus cristatus L.	Kamgras	Crételle	Crested Dog's-Tail	Kammgras	20
Dactylis glomerata L.	Kropaar	Dactyle	Cocksfoot, Orchard Grass	Knaulgras	20
Dahlia Cav.	Dahlia	Dahlia	Dahlia	Dahlie	20
Daucus carota L.	Peen	Carotte	Carrot	Möhre	20
Delphinium L.	Ridderspoor	Pied d'alouette	Delphinium, Larkspur	Rittersporn	20
Dianthus caryo- phyllus L.	Anjer	Oeillet	Carnation	Nelke	20
Dieffenbachia Schott	Dieffenbachia	Dieffenbachia	Dieffenbachia	Dieffenbachia	20



<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Dizygotheca N.E. Br.	Fijnbladige vingerplant	Dizygothéca	Dizygotheca	Fingeraralia	25
Erica L.	Dopheide	Bruyère	Heath	Glockenheide	20
Eryngium L.	Kruisdistel	Panicaut	Eryngo	Edeldistel, Mannstreu	20
Euphorbia fulgens Karw.	Koraalrank	Euphorbia fulgens	Euphorbia fulgens	Korallenranke	20
Euphorbia-Milii- Hybridi	Christusdoorn	Epine du Christ	Christ's Thorn, Crown of Thorns	Christusdorn	20
Euphorbia pul- cherrima Willd. ex Klotzsch	Kerstster	Poinsettia	Poinsettia	Poinsettie, Weihnachts- stern	20
Exacum L.	Exacum	Exacum	Exacum	Exacum	20
Festuca arundi- nacea Schreb.	Rietzwenkgras	Fétuque élevée	Tall Fescue	Rohrschwengel	20
Festuca ovina L. sensu lato	Hardzwenkgras, Schapegras	Fétuque durette, Fétuque ovine	Hard Fescue, Sheep's Fescue	Schafschwengel	20
Festuca pratensis Huds.	Beemdlangbloem	Fétuque des prés	Meadow Fescue	Wiesen- schwengel	20
Festuca rubra L.	Roodzwenkgras	Fétuque rouge	Red Fescue, Creeping Fescue	Rotschwengel	20
Ficus benjamina L.	Waringin	Ficus benjamina	Benjamin Tree	-	20
Foeniculum vulgare P. Mill.	Venkel	Fenouil	Fennel	Fenchel	20
Forsythia Vahl	Chinees klokje, Forsythia	Forsythia	Forsythia, Golden Bell	Forsythie, Goldflieder, Goldglöckchen	20
Fragaria L.	Aardbei	Fraisier	Strawberry	Erdbeere	20
Fraxinus excelsior L.	Es	Frêne élevé	Ash	Esche	25
Freesia Eckl. ex Klatt	Freesia	Freesia	Freesia	Freesie	20
Fuchsia magella- nica Lam. var. macrostemma (Ruiz et Pav.) Munz	Fuchsia	Fuchsia arbustrif	Fuchsia	Fuchsie	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Gentiana L.	Gentiaan	Gentiane	Gentian	Enzian	20
Gerbera L.	Gerbera	Gerbera	Gerbera	Gerbera	20
Gladiolus L.	Gladiool	Glaïeul	Gladiolus	Gladiole	20
Gloriosa L.	Gloriosa	Gloriosa	Gloriosa	Gloriosa	20
Gypsophila L.	Gipskruid	Gypsophile	Gyp, Gypsophila, Baby's Breath	Gipskraut, Schleierkraut	20
Helianthus annuus L.	Zonnebloem	Tournesol, Soleil	Common Sunflower	Sonnenblume	20
Helleborus L.	Kerstroos	Hellébore, Rose de Noël	Hellebore, Christmas Rose, Lenten Rose	Nieswurz, Schneerose, Christusrose	20
Hippeastrum Herb.	Amaryllis	Amaryllis	Amaryllis	Ritterstern, Amaryllis	20
Hordeum vulgare L. sensu lato	Gerst	Orge	Barley	Gerste	20
Humulus lupulus L.	Hop	Houblon	Hop	Hopfen	25
Hyacinthus orientalis L.	Hyacinth	Jacinthe	Common Hyacinth	Hyazinthe	20
Hydrangea L.	Hortensia	Hortensia	Hydrangea	Hortensie	20
Ilex L.	Hulst	Houx	Holly	Ilex, Stechpalme	25
Impatiens-Neu- Guinea-Hybridi	Nieuw-Guinea- Impatiens	Impatiente de Nouvelle- Guinée	New Guinea Impatiens	Neu-Guinea- Impatiens	20
Iris L.	Iris	Iris	Iris	Iris	20
Juniperus L.	Jeneverbes	Genévrier	Juniper	Wacholder	25
Kalanchoë Adans.	Kalanchoë	Kalanchoë	Kalanchoë	Kalanchoë	20
Kohleria Regel	Kohleria	Kohleria	Kohleria	Kohleria	20
Lactuca sativa L.	Sla	Laitue	Lettuce	Salat	20
Larix Mill.	Lork	Mélèze	Larch	Lärche	25
Lepidium sativum L.	Tuinkers	Cresson alénois	Cress	Gartenkresse	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
<i>Liatris Gaertn.</i> ex Schreb.	Liatris	Liatris	Liatris, Blazing Star, Gayfeather	Prachtscharte	20
<i>Lilium L.</i>	Lelie	Lis	Lily	Lilie	20
<i>Linum usita-</i> <i>tissimum L.</i>	Vlas	Lin	Flax, Linseed	Lein	20
<i>Lobelia L.</i>	Lobelia	Lobélie	Lobelia, Cardinal Flower	Lobelia	20
<i>Lolium multi-</i> <i>florum Lam.</i>	Italiaans raaigras, Westerwold raaigras	Ray-grass d'Italie, Ray-grass de Westerwold	Italian Rye-grass, Westerwold Rye-grass	Italienisches Raygras, Welsches Weidelgras	20
<i>Lolium perenne</i> <i>L.,</i> et <i>Lolium X</i> hybridum Hausskn.	Engels raaigras, en hun onderlinge hybriden	Ray-grass anglais, et leurs hybrides mutuels	Perennial Rye-grass, and their mutual hybrids	Deutsches Weidelgras, und ihre wechselseitigen Hybriden	20
<i>Lupinus albus L.</i>	Witte lupine	Lupin blanc	White Lupin	Weisslupine	20
<i>Lupinus angusti-</i> <i>folius L.</i>	Blauwe lupine	Lupin bleu	Blue Lupin	Blaue Lupine	20
<i>Lupinus luteus L.</i>	Gele lupine	Lupin jaune	Yellow Lupin	Gelbe Lupine	20
<i>Lycopersicon</i> <i>lycopersicum L.</i>	Tomaat	Tomate	Tomato	Tomate	20
<i>Mahonia Nutt.</i>	Mahonia	Mahonia	Mahonia	Mahonie	20
<i>Malus Mill.</i>	Appel, onder stammen en sierrassen inbegrepen	Pommier, y compris les portegreffes et variétés ornementales	Apple, inclu- ding root- stocks and ornamental varieties	Apfel, ein- schliesslich Unterlagen und Ziersorten	25
<i>Marantaceae</i> Petersen	Maranta- achtigen	Marantacées	Marantaceae	Maranten- gewächse	20
<i>Matthiola R. Br.</i> corr. Spreng.	Violier	Giroflée	Stock	Levkoje	20
<i>Medicago</i> <i>lupulina L.</i>	Hopperups- klaver	Luzerne lupuline	Black Medick, Yellow Trefoil	Gelbklee (Hopfenklee)	20
<i>Medicago sativa</i> <i>L., Medicago X</i> <i>varia Martyn</i>	Luzerne	Luzerne	Lucerne	Luzerne	20
<i>Narcissus L.</i>	Narcis	Narcisse, Jonquille	Narcissus, Doffofil, Jonquil	Narzisse	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Oenothera L.	Teunisbloem	Onagre	Oenothera, Evening Primrose	Nachtkerze	20
Orchidaceae Juss.	Orchideeën	Orchidées	Orchids	Orchideen	20
Papaver somniferum L.	Blauwmaanzaad	Oeillette, Pavot	Opium Poppy	Mohn	20
Pelargonium- Grandi-florum- Hybridi	Franse geranium	Pelargonium des fleuristes	Show and Fancy Pelargoniums	Edel- pelargonie	20
Pelargonium- Peltatum-Hybridi	Hanggeranium	Géranium- lierre	Ivy-leaved Pelargonium	Efeu- pelargonie	20
Pelargonium- Zonale-Hybridi	Tuingeranium	Géranium, Pelargonium zonale	Zonal Pelargonium	Zonal- pelargonie	20
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	20
Petroselinum crispum (Mill.) Nym. ex A.W. Hill	Peterselie	Persil	Parsley	Petersilie	20
Petunia Juss.	Petunia	Pétunia	Petunia	Petunie	20
Phaseolus coccineus L.	Pronkboon	Haricot d'Espagne	Runner Bean, Kidney Bean	Prunkbohne	20
Phaseolus vulgaris L.	Boon	Haricot	French Bean	Gartenbohne	20
Phleum bertolonii DC.	Kleine timothee	Fléole diploïde	Timothy	Zwiebelliesch- gras	20
Phleum pratense L.	Lammerstaart	Fléole des prés	Timothy	Wiesenliesch- gras	20
Philodendron Schott corr. Schott	Philodendron	Philodendron	Philodendron	Philodendron	20
Phlox L.	Vlambloem	Phlox	Phlox Flammenblume	Phlox,	20
Picea A. Dietr.	Spar	Epicéa	Spruce	Fichte	25
Pisum sativum L. sensu lato	Erwt	Pois	Pea	Erbse	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
<i>Poa annua</i> L.	Tuintjesgras	Pâturin annuel	Annual Meadow-grass	Einjähriges Rispengras	20
<i>Poa compressa</i> L.	Plat beemdgras	Pâturin comprimé	Canada Bluegrass, Flattened Meadow-grass	Flaches Rispengras	20
<i>Poa nemoralis</i> L.	Schaduwgras	Pâturin des bois	Wood Meadow-grass	Hainrispen-gras	20
<i>Poa palustris</i> L.	Moeras-beemdgras	Pâturin des marais	Swamp Meadow-grass	Sumpfrispen-gras	20
<i>Poa pratensis</i> L.	Veldbeemdgras	Pâturin des prés	Kentucky Bluegrass, Smooth Stalked Meadowgrass	Wiesenrispen-gras	20
<i>Poa trivialis</i> L.	Ruwbeemdgras	Pâturin commun	Rough Stalked Meadow-Grass	Gemeines Rispengras	20
<i>Populus</i> L.	Populier	Peuplier	Poplar	Pappel	25
<i>Potentilla fruticosa</i> L.	Potentilla	Potentille ligneuse	Shrubby Cinquefoil	Fingerstrauch	20
<i>Primula</i> L.	Sleutelbloem	Primevère	Auricula, Oxlip, Cows-lip, Primrose	Primel, Schlüsselblume	20
<i>Prunus</i> L.	Kers, Pruim, Abrikoos, Kers-Pruim, Perzik: voor deze soorten onderstammen en sierrassen enbegrepen	Cerisier, Prunier, Abricotier, Myrobolan, Pêcher: pour ces espèces y compris les porte-greffes et variétés ornementales	Cherry, Plum, Abricot, Myrobalan, Peach: including rootstock and ornamental varieties for these species	Kirsche, Aprikose, Myrobalane, Pfirsich: einschliesslich Unterlagen und Ziersorten für diese Arten	25
<i>Prunus lauro-cerasus</i> L.	Laurierkers	Laurier-cerise	Cherry-laurel	Kirschlorbeer	25
<i>Pseudotsuga</i> Carr.	Douglasspar	Sapin de Douglas	Douglas Fir	Douglasie	25
<i>Pyracantha</i> M.J. Roem.	Vuurdoorn	Pyracantha	Firethorn	Feuerdorn	20
<i>Pyrus</i> L.	Peer, onderstammen en sierrassen inbegrepen	Poirier, y compris les portegreffes et variétés ornementales	Pear, including rootstocks and ornamental varieties	Birne, einschliesslich Unterlagen und Ziersorten	25

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Quercus L.	Eik	Chêne	Oak	Eiche	25
Radermachera Zoll. et Mor.	Radermachera	Radermachera	Radermachera	Radermachera	20
Ranunculus L.	Ranonkel	Renoncule	Ranunculus, Buttercup	Hahnenfuss	20
Raphanus sativus L.					
- var. niger (Mill.) S. Kerner	Ramenas	Radis d'été, d'automne et d'hiver	Black Radish	Rettich	20
- var. olei- formis Pers.	Bladramenas	Radis oléifère	Fodder Radish	Oelrettich	20
- var. sativus	Radijs	Radis de tous les mois	Radish	Radieschen	20
Rheum rhabarbarum L.	Rabarber	Rhubarbe	Rhubarb	Krauser Rharbarber	20
Rhododendron L.	Azalea, Rhododendron	Azalée, Rhododendron	Azalea, Rhododendron	Azalee, Rhododendron	20
Ribes L.	Zwarte aalbes, witte en rode Trosbes, Kruisbes en hybriden van deze soorten: sierrassen inbegrepen voor al deze soorten	Cassis, Groseilliers blanc et rouge, Gro- seillier à maquereau et hybrides de ces espèces: les variétés ornementales y comprises pour toutes ces espèces	Black, Red and White Currants, Gooseberry and hybrids of these species: ornamental varieties included for all these species	Schwarze, Weisse und Rote Johannis- beere, Stachelbeere und Hybriden dieser Arten: Ziersorten für all diese Arten einbe- griffen	25
Robinia pseudo- acacia L.	Acacia	Robinier faux-acacia	False Acacia	Robinie	25
Rosa L.	Roos	Rosier	Rose	Rose	20
Rubus L.	Framboos; Braames (fruit en sierrassen)	Framboisier; Ronce (frui- tière et ornementale)	Raspberry; Bramble (fruit and ornamental varieties)	Himbeere; Brombeere (Obst- und Ziersorten)	25
Saintpaulia ionantha H. Wendl.	Kaaps viooltje	Saintpaulia	African Violet	Usambara- veilchen	20
Salix L.	Wilg	Saule	Willow	Weide	25
Salvia L.	Salie	Sauge	Sage	Salbei	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
Scabiosa caucasica M.B.	Scabiosa caucasica	Scabiosa caucasica	Scabious	Skabiose	20
Scorzonera hispanica L.	Schorseneer	Scorsonère	Black Salsify	Schwarzwurzel	20
Secale cereale L.	Rogge	Seigle	Rye	Roggen	20
Senecio L.	Kruiskruid	Séneçon	Senecio	Kreuzkraut	20
Sinapis alba L.	Gele mosterd	Moutarde blanche	White Mustard	Weisser Senf	20
Solanum melongena L.	Aubergine	Aubergine	Eggplant, Aubergine	Eierfrucht, Aubergine	20
Solanum tuberosum L.	Aardappel	Pomme de terre	Potato	Kartoffel	25
Solidago L.	Guldenroede	Verge d'or	Golden Rod	Goldrute	20
Spathiphyllum Schott	Spathiphyllum	Spathiphyllum	Spathiphyllum	Spathiphyllum	20
Spinacia oleracea L.	Spinazie	Epinard	Spinach	Spinat	20
Streptocarpus Lindl.	Draaivrucht	Streptocarpus	Streptocarpus	Drehfrucht	20
Symphoricarpos Duham.	Sneeuwbes	Symphorine	Snowberry	Schneebeere	20
Syringa L.	Sering	Lilas	Lilac	Flieder	25
Tagetes L.	Afrikaan Tagetes	Tagète, Oeillet d'Inde, Rose d'Inde	Marigold	Sammetblume	20
Thuja L.	Thuya	Thuya	Thuya	Lebensbaum	25
Tilia L.	Linde	Tilleul	Lime	Linde	25
Trifolium incarnatum L.	Inkarnaat Klaver	Trèfle incarnat	Crimson Clover	Inkarnatklée	20
Trifolium hybridum L.	Bastaard- klaver	Trèfle hybride	Alsike Clover	Schwedenklée	20
Trifolium pratense L.	Rode klaver	Trèfle violet	Red Clover	Rotklée	20
Trifolium repens L.	Witte klaver	Trèfle blanc	White Clover	Weissklée	20

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>*</u>
X Triticosecale Wittmack	Triticale	Triticale	Triticale	Triticale	20
Triticum aesti- vum L. emend. Fiori et Paol.	Zachte tarwe	Blé tendre	Wheat, Soft Wheat, Bread Wheat	Weichweizen	20
Triticum durum Desf.	Harde tarwe	Blé dur	Durum Wheat, Macaroni Wheat, Hard Wheat	Hartweizen	20
Triticum spelta L.	Spelt	Epeautre	Spelt	Spelz	20
Tulipa L.	Tulp	Tulipe	Tulip	Tulpe	20
Ulmus L.	Iep	Orme	Elm	Ulme	25
Vaccinium corymbosum L.	Bosbes	Myrtille	Blueberry	Kultur- heidelbeere	20
Valerianella locusta (L.) Laterrade	Veldsla	Mâche	Cornsalad, Lamb's Lettuce	Feldsalat	20
Verbena L.	IJzerhard	Verveine	Vervain	Verbene, Eisenkraut	20
Viburnum L.	Sneeuwbal	Viorne	Snowball Tree	Schneeball	20
Vicia faba L. var. major Harz	Tuinboon	Fève	Broad Bean, Horse Bean	Dicke Bohne (Puffbohne)	20
Vicia faba L. var. minor Harz	Veldboon	Féverole	Field Bean, Tick Bean	Ackerbohne	20
Vicia sativa L.	Voederwikke	Vesce commune	Common Vetch	Saatwicke	20
Viola L.	Viooltje	Violette, Pensée	Violet, Pansy	Veilchen, Stiefmütterchen	20
Vitis L.	Wijnstok	Vigne	Vine	Rebe	25
Weigela Thunb. (Diervilla Mill.)	Weigelia	Weigela	Diervilla	Weigelia	20
Zea mays L.	Maïs	Maïs	Maize	Mais	20
Zygocactus K. Schum., Schlum- bergera Lem., Epiphyllopsis Berger, Rhipsa- lidopsis Britt. et Rose	Lidcactussen behorende tot de geslachten en hun onder- linge hybriden	Cactus à tiges à articles appartenant aux genres et à leurs hybrides mutuels	Cacti with jointed stems belonging to the genera and to their mutual hybrids	Gliederkak- teen, die zu den Gattungen und ihren wech- selseitigen Hybriden gehören	20



Israel

By virtue of the Plant Breeders' Rights Order (Amendment to Schedule) published in Kovetz Hatakanot (Israel Official Gazette) No. 5351 of April 30, 1991, protection was extended to the following:

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Actinidia chinensis Pl.	Kiwifruit	Actinidia, Groseille de Chine	Kiwifrucht
Alocasia (Schott) G. Don	Alocasia	Alocasia	Alocasia, Pfeilwurz, Tropenwurz
Chlorophytum Ker.	Chlorophytum	-	-
Maranta L.	Maranta	Maranta, Dormeuse	Maranta, Pfeilwurz
Monstera Adans.	Monstera	Monstera, Ananas du pauvre	Monstera
Opuntia ficus-indica (L.) Mill.	Barbary fig	Cactus raquette	Feigenkaktus
Philodendron Schott corr. Schott	Philodendron	Philodendron	Philodendron
Phlox L.	Phlox	Phlox	Phlox, Flammenblume
Syngonium Schott	Syngonium	-	-
Triteleia Dougl. ex Lindl.	Triteleia	-	-

By virtue of the Plant Breeders' Rights Order (Amendment to Schedule) published in Kovetz Hatakanot (Israel Official Gazette) No. 5373 of July 25, 1991, protection was extended to the following:

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Celosia pyramidalis	Celosia	Célosie	Celosie

As regards the availability of protection to foreigners and the novelty condition, reference is made to Sections 3 and 71, and Section 7, respectively, of the Law on the Rights of the Breeders of Plant Varieties published in the "Legislation" subsection of Plant Variety Protection No. 47 (October 1985).

The consolidated list of taxa covered by plant variety protection legislation is given on the following pages.

List of Taxa Covered by Plant Variety Protection Legislation in Israel (with effect from July 25, 1991)\*

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Actinidia chinensis Pl.	Kiwifruit	Actinidia, Groseille de Chine	Kiwifrucht
Allium cepa L.	Onion	Oignon	Zwiebel
Allium sativum L.	Garlic	Ail	Knoblauch
Alocasia (Schott) G. Don	Alocasia	Alocasia	Alocasia, Pfeilwurz, Tropenwurz
Alstroemeria L.	Alstroemeria	Alstroemère, 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	Flamingoblume
Arachis hypogaea L.	Groundnut	Arachide	Erdnuss
Aster L.	Aster	Aster	Aster
Avena sativa L.	Oat	Avoine	Hafer
Averrhoa carambola L.	Carambola	Carambole	Karambola
Begonia L.	Begonia	Bégonia	Begonie
Brassica oleracea L. convar. botrytis (L.) Alef.	Cauliflower	Chou-fleur	Blumenkohl

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

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

Diese Liste stützt sich auf eine Uebersetzung der in Reshumot (Originalliste) und in Kovetz Hatakanot (spätere durch Verordnungen erlassene Aenderungen) in hebräisch veröffentlichten Originaltexte.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Callistephus Cass.	(China) Aster	Aster, Aster de Chine, Reine-marguerite	Sommeraster
Capsicum annuum L.	Sweet Pepper, Capsicum, Chili	Poivron, Piment	Paprika
Carthamus tinctorius L.	Safflower	Carthame, Safranbâtard	Saflor, Färberdistel
Carica papaya L.	Papaya, Pawpaw	Papayer, Arbre à melon	Melonenbaum, Papaya
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
Celosia pyramidalis	Celosia	Célosie	Celosia
Chamelaucium Desf.	Geraldton Wax	-	-
Chlorophytum Ker.	Chlorophytum	-	-
Chrysanthemum L.	Chrysanthemum	Chrysanthème	Chrysantheme
Cicer arietinum L.	Chick-pea	Pois chiche	Kichererbse
Citrullus lanatus (Thunb.) Matsum. et Nakai	Watermelon	Pastèque	Wassermelone
Citrus spec.	Citrus	Agrumes	Zitrus
Cucumis melo L.	Melon	Melon	Melone
Cucumis sativus L.	Cucumber, Gherkin	Concombre, Cornichon	Gurke
Cucurbita pepo L.	Pumpkin, Marrow, Courgette	Courge, Pâtisson, Citrouille	Gartenkürbis, Oelkürbis
Cynara spp.	Artichoke, Cardoon	Artichaut, Cardon	Artischoke, Kardone
Dahlia Cav.	Dahlia	Dahlia	Dahlie
Dianthus L.	Carnation	Oeillet	Nelke
Diospyros kaki L. f.	Japanese Persimmon, Kaki	Plaqueminier, Kaki	Kakipflaume

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Duboisia leichardtii F. Moell.	Duboisia	Duboisia	Duboisie
Eriobotrya japonica (Thunb.) Lindl.	Loquat	Néflier du Japon	Japanische Mispel, Loquate
Euphorbia fulgens Karw.	Euphorbia fulgens	Euphorbia fulgens	Korallenranke
Euphorbia pulcherrima Willd. ex Klotzsch	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
Euryops virgineus (L.f.) DC.	Euryops virgineus	-	-
Feijoa sellowiana (Berg) Berg	Feijoa	Feijoa	Feijoa
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.	Sunflower	Tournesol, Soleil	Sonnenblume
Hibiscus L.	Hibiscus	Hibiscus	Eibisch
Hordeum vulgare L.	Barley	Orge	Gerste
Impatiens L.	Impatiens, Busy Lizzie, Balsam, Touch-me-not	Balsamine, Impatiente	Springkraut, Balsamine
Iris L.	Iris	Iris	Iris, Schwertlilie
Kalanchoë Adans.	Kalanchoë	Kalanchoë	Kalanchoë
Lachenalia Jacq. f. ex Murray	Lachenalia, Cape Cowslip	Lachenalia, Coucou du Cap	Lachenalia
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

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Lilium L.	Lily	Lis	Lilie
Limonium Mill.	Sea Lavender, Statice	Limonium, Statice	Widerstoss, Meerlavendel
Lisianthus L.	Lisianthus	Lisianthus	Lisianthus
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
Maranta L.	Maranta	Maranta, Dormeuse	Maranta, Pfeilwurz
Medicago hispida Gaertn.; M. sativa L.	Alfalfa (Hairy Medick and Lucerne)	Luzerne (hérissée et cultivée)	Schneckenklee (Sichelluzerne und Blaue Luzerne)
Monstera Adans.	Monstera	Monstera, Ananas du pauvre	Monstera
Musa L.	Banana	Bananier	Banane
Narcissus L.	Narcissus, Daffodil, Jonquil	Narcisse, Jonquille	Narzisse
Nicotiana tabacum L.	Tobacco (common)	Tabac	Tabak
Olea europaea L.	Olive	Olivier	Oelbaum, Olive
Opuntia ficus-indica (L.) Mill.	Barbary fig	Cactus raquette	Feigenkaktus
Orchidaceae Juss.	Orchids	Orchidées	Orchideen
Origanum L.	Sweet Marjoram	Origan	Dost
Ornithogalum spp.	Chinkerinchee, Star of Bethlehem	Ornithogale, Dame d'onze heures	Milchstern, Vogelmilch, Stern von Bethlehem
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

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Petunia Juss.	Petunia	Pétunia	Petunie
Phalaris tuberosa L.	Hardings Grass	Herbe de Harding, Alpiste tubéreux	Knolliges Glanzgras
Phaseolus vulgaris L.	French Bean	Haricot	Gartenbohne
Philodendron Schott corr. Schott	Philodendron	Philodendron	Philodendron
Phlox L.	Phlox	Phlox	Phlox, Flammenblume
Piqueria Cav.	Piqueria	Piqueria	Piqueria
Pistacia vera L.	Pistache	Pistachier	Echte Pistazie
Portulacaria Jacq.	Portulacaria, Purslane Tree	Portulacaria	Strauchportulak, Speckbaum
Prunus armeniaca	Apricot	Abricotier	Aprikose
Prunus domestica L.; P. salicina Lindl.	Plum	Prunier	Pflaume
Prunus persica (L.) Batsch	Peach	Pêcher	Pfirsich
Psidium guajava L.	Guava	Goyavier	Guayave
Pyrus communis L.	Pear	Poirier	Birne
Ranunculus L.	Ranunculus, Buttercup	Renoncule	Hahnenfuss
Raphanus sativus L.	Radish	Radis	Rettich
Ricinus communis L.	Castorbean	Ricin	Wunderbaum, Palma Christi
Rosa L.	Rose	Rosier	Rose
Saintpaulia ionantha H. Wendl.	African Violet	Saintpaulia	Usambaraveilchen
Salvia L.	Sage	Sauge	Salbei
Sesamum indicum L.	Sesame	Sésame	Sesam
Simmondsia chinensis (Link) Schneid.	Jojoba	-	-
Solanum melongena L. var. esculentum Nees	Eggplant, Aubergine	Aubergine	Eierfrucht, Aubergine
Solanum tuberosum L.	Potato	Pomme de terre	Kartoffel

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Solidago L.	Golden Rod	Verge d'or	Goldrute
x Solidaster Wehrh.	Solidaster	Solidaster	Solidaster
Sorghum vulgare Pers.	Sorghum	Sorgho	Mohrenhirse
Syngonium Schott	Syngonium	-	-
Trachelium Tourn.	Throatwort	Trachélie	Halskraut
Trifolium alexandrinum L.; T. berytheum Boiss.; T. repens L.; T. subterraneum L.	Clover	Trèfle	Klee
Triteleia Dougl. ex Lindl.	Triteleia	-	-
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 L.	Vine	Vigne	Rebe
Zea mays L.	Maize	Maïs	Mais

### South Africa

By virtue of the Regulations Relating to Plant Breeders' Rights - Amendment No. R. 1640 of July 13, 1990, (Government Gazette of July 13, 1990), protection has been extended to the following with effect from July 13, 1990:

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Setaria sphacelata (Schum.) Staph. et C.E. Hubb	Common Setaria	-	-
Vicia faba L. var. major Harz	Broad Bean, Horse Bean,	Fève	Dicke Bohne (Puffbohne)

By virtue of the Regulations Relating to Plant Breeders' Rights - Amendment No. R. 989 of May 10, 1991, (Government Gazette of May 10, 1991), protection has been extended to the following with effect from May 10, 1991:

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Panicum maximum Jacq.	White Buffalo grass	Herbe de Guinée	Guineagrass

The consolidated list of taxa which are covered by plant variety protection legislation is given below together with some details on the fees payable<sup>1</sup> and the duration of protection.

KINDS OF PLANTS, FEES AND PERIODS OF RIGHTS<sup>2</sup>

[Regulations 2, 10(1), 11, 12(1), 13]

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Actinidia chinensis Planch.	Kiwifruit	Actinidia, Groseille de Chine	Kiwifrucht	820	18	90	8
X Agrotriticum	-	-	-	570	15	90	5
Allium cepa L.	Onion	Oignon	Zwiebel	570	20	90	8
Aloë spp.	Aloe	Aloès	Aloe, Bitterschopf	820	18	90	8
Ananas comosus (L.) Merr.	Pineapple	Ananas	Ananas	820	18	90	8
Arachis spp.	Groundnut	Arachide	Erdnuss	570	15	120	5
Aulax, Leucadendron, Leucospermum, Mimetes, Orothamnus, Paranomus, Protea, Serruria	Protea	Protea	Protea	820	18	90	8
Avena spp.	Oats	Avoine	Hafer	820	15	120	5
Beta vulgaris L. var. esculenta L.	Garden beet	Betterave rouge, Betterave potagère	Rote Rübe	570	15	90	5
Brassica napus L.	Rape	Colza	Raps	570	15	90	5

1 The tariff of fees has also been amended (see page 76)

2 This table is an adapted form of the one published in Government Gazette No. 7349, as last amended on January 18, 1991. The Latin names have been adapted where necessary to the latest knowledge in plant taxonomy. The English names are the ones published in the Government Gazette. The French and German common names have been added by the Office of the Union, without guarantee of concordance.

The abbreviations have the following meaning:

A = Examination fee (in Rands) (Regulation 10(1))

B = Period of plant breeder's right (in years) (Regulation 11)

C = Annual fee (in Rands) (Regulation 12(1))

D = Period of sole rights (in years) (Regulation 13)



<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<i>Brassica napus</i> L. var. <i>napobrassica</i> (L.) Rchb.	Swede	Chou-navet, Rutabaga	Kohlrübe	570	15	90	5
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>medullosa</i> Thell.	Fodder Kale	Chou fourrager	Futterkohl	570	15	90	5
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>sabellica</i>	Borecole, Curly Kale	Chou frisé	Grünkohl	570	15	90	5
<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef. var. <i>botrytis</i>	Cauliflower	Chou-fleur	Blumenkohl	570	15	90	5
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>capitata</i> L.	Cabbage	Chou pommé	Kopfkohl	570	15	90	5
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>sabauda</i> L.	Savoy Cabbage	Chou de Milan	Wirsing	570	15	90	5
<i>Brassica rapa</i> L.	Turnip	Navet	Herbstrübe, Mairübe	570	15	90	5
<i>Bromus unioloides</i> H.B.K.	Rescue Grass	Brome de Schrader	Horntrespe	570	15	90	5
<i>Capsicum</i> spp.	Sweet pepper	Poivron, Piment	Paprika	570	15	60	5
<i>Carica papaya</i> L.	Pawpaw	Papayer, Arbre à melon	Melonenbaum, Papaya	570	18	90	8
<i>Carya illinoensis</i> (Wangenh.) C. Koch	Pecan nut	Pacancier	Pekan, Pekannuss	1090	20	90	8
<i>Cenchrus ciliaris</i> L.	Cenchrus	<i>Cenchrus cilié</i>	Büffelgras	570	15	90	5
<i>Chloris gayana</i> Kunth	Rhodes Grass	Herbe de Rhodes	Rhodesgras	570	15	90	5
<i>Chrysanthemum</i> spp.	Chrysanthemum	Chrysanthème	Chrysantheme	820	15	120	5
<i>Citrullus lanatus</i> (Thunb.) Matsum. et Nakai	Water-melon	Pastèque	Wassermelone	570	15	90	5

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Citrus spp.	Sweet orange, Lemon, Grapefruit, loose skin types, other (Bitter Seville, Lime, Kumquat)	Oranger, Citronnier, Pomélo, types à écorce lâche, autres types (Bigaradier, Limettier, Kumquat)	Orange, Zitrone, Grapefruit, Arten mit loser Schale, andere Arten (Pomeranze, Saure Limette, Kumquat)	1370	25	170	10
Coffea arabica L.	Coffee	Caféier	Kaffee	820	18	90	8
Cucumis spp.	Sweet melon, Cucumber	Melon, Concombre	Melone, Gurke	570	15	90	5
Cucurbita spp.	Pumpkin, Squash	Potiron, Giraumon, Courge, Pâtisson, Citrouille	Kürbis	570	15	90	5
Cydonia spp.	Quince	Cognassier	Quitte	820	18	90	8
Dactylis glomerata L.	Cocksfoot	Dactyle	Knäulgras	570	15	90	5
Daucus carota L.	Carrot	Carotte	Möhre	570	15	90	5
Dianthus caryophyllus L.	Carnation	Oeillet	Nelke	820	15	120	5
Digitaria eriantha Steud. ssp. eriantha	Smuts Digitaria	-	-	570	15	90	5
Eragrostis curvula (Schr.) Nees	Eragrostis	Eragrostis courbé	Behaartes Liebegras	570	15	90	5
Eragrostis tef (Zucc.) Trotter	Teff	Teff, Teff d'Abyssinie	Abessinische Zwerghirse, Teff	570	15	90	5
Euphorbia pulcherrima Willd. ex Klotzsch	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern	820	15	90	5
Festuca arundinacea Schreb.	Tall Fescue	Fétuque élevée	Rohrschwengel	570	15	90	5
Fragaria ananassa Duch.	Strawberry	Fraisier	Erdbeere	570	15	90	5
Freesia spp.	Freesia	Freesia	Freesie	820	15	90	5
Gladiolus spp.	Gladiolus	Glaïeul	Gladiole	820	15	120	5
Glycine max (L.) Merrill	Soya bean	Soja	Sojabohne	570	15	90	5

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Gossypium hirsutum L.	Cotton	Cotonnier	Baumwolle	820	15	120	5
Helianthus annuus L.	Sunflower	Tournesol, Soleil	Sonnenblume	570	15	120	5
Hibiscus cannabinus L.	Kenaf	Kénaf, Chanvre de Guinée	Ambari, Dekkan-Hanf	570	15	90	5
Hordeum spp.	Barley	Orge	Gerste	820	15	150	5
Humulus lupulus L.	Hops	Houblon	Hopfen	820	18	90	8
Lachenalia spp.	Lachenalia	Lachenalia, Coucous du Cap	Lachenalia	820	15	90	5
Lactuca sativa L.	Lettuce	Laitue	Salat	570	15	60	5
Litchi chinensis Sonn.	Litchi	Litchi	Litschi	1090	20	90	8
Lolium spp.	Rye grass	Ray-grass	Weidelgras	570	15	90	5
Lupinus spp.	Lupin	Lupin	Lupine	570	15	90	5
Lycopersicon lyco- persicum (L.) Karst. ex Farwell	Tomato	Tomate	Tomate	820	18	170	8
Macadamia spp.	Macadamia	Macadamia	Macadamia	820	20	150	8
Malus spp.	Apple	Pommier	Apfel	1090	25	150	8
Mangifera indica L.	Mango	Manguier	Mango	1090	20	120	8
Medicago sativa L.	Lucerne	Luzerne	Blaue Luzerne	820	15	120	5
Musa cavendishii Lamb.	Banana	Bananier	Banane	820	18	90	8
Narcissus L.	Narcissus	Narcisse	Narzisse	820	15	90	5
Ornithogalum spp.	Chinkerinchee	Ornithogale, Dame d'onze heures	Milchstern, Vogelmilch, Stern von Bethlehem	820	15	90	5
Oryza sativa L.	Rice	Riz	Reis	570	15	90	5
Panicum maximum Jacq.	White Buffalo Grass	Herbe de Guinée	Guineagrass	570	15	90	5
Passiflora edulis Sims	Grenadilla	Barbadine	Purpur- granadilla	820	18	90	8

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Pelargonium spp.	Geranium (Pelargonium)	Géranium (Pélargonium)	Pelargonie	820	15	90	5
Pennisetum typhoides Stapf (Burm.) et C.E. Hubb.	Pearl millet	Pénicillaire, Mil à chandelle	Feder- borstengras	570	15	90	5
Persea americana P. Mill.	Avocado	Avocatier	Avocado	820	20	120	5
Phaseolus coccineus L.	Kidney bean	Haricot d'Espagne	Prunkbohne	570	15	120	5
Phaseolus vulgaris L.	Bean	Haricot	Gartenbohne	570	15	120	5
Pisum spp.	Pea	Pois	Erbse	570	15	120	5
Prunus Amygdalus spp.	Almond	Amandier	Mandel	820	20	120	8
Prunus armeniaca L.	Apricot	Abricotier	Aprikose	820	18	120	8
Prunus avium (L.) L.	Sweet cherry	Cerisier (cerises douces : guignes, bigarreaux)	Süsskirsche	820	18	90	8
Prunus cerasus L.	Sour cherry	Cerisier (cerises acides : griottes, amarelles)	Sauerkirsche	510	18	90	8
Prunus domestica L.	Plum	Prunier	Pflaume	1090	20	150	8
Prunus persica (L.) Batsch	Peach	Pêcher	Pfirsich	1090	25	150	8
Prunus salicina Lindl.	Japanese Plum	Prunier du Japon	Japanische Pflaume	1090	20	150	8
Psidium guajava L.	Guava	Goyavier	Guayave	1090	18	120	8
Pyrus communis L.	Pear	Poirier	Birne	1090	25	150	8
Raphanus sativus L. var. oleiformis Pers.	Fodder Radish	Radis oléifère, Radis chinois	Oelrettich	570	15	90	5
Ricinus communis L.	Castor bean	Ricin	Wunderbaum, Palma Christi	570	15	90	5
Rosa hort.	Rose	Rosier	Rose	820	15	120	5
Saintpaulia ionantha H. Wendl.	African violet	Saintpaulia	Usambara- veilchen	820	15	90	5

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
<i>Setaria sphacelata</i> (Schumacher) Stapf et Hubb	Common Setaria	-	-	570	15	90	5
<i>Solanum melongena</i> L. var <i>esculentum</i> Nees	Egg-fruit	Aubergine	Eierfrucht, Aubergine	570	15	90	5
<i>Solanum tuberosum</i> L.	Potato	Pomme de terre	Kartoffel	820	20	150	8
<i>Sorghum</i> spp.	Grain sorghum, Fodder sorghum	Sorgho grain, Sorgho fourrager	Mohrenhirse (Korn- und Futter-)	820	15	120	5
<i>Thea sinensis</i> L.	Tea	Théier	Tee	820	18	90	8
<i>Trifolium hybridum</i> L.	Alsike clover	Trèfle hybride	Schwedenklee	820	15	90	5
<i>Trifolium pratense</i> L.	Red clover	Trèfle violet	Rotklee	820	15	90	5
<i>Trifolium repens</i> L.	White clover	Trèfle blanc	Weissklee	820	15	90	5
<i>Trifolium resupinatum</i> L.	Pin clover	Trèfle de Perse	Persischer Klee	820	15	90	5
<i>Trifolium subterraneum</i> L.	Subterranean clover	Trèfle souterrain	Bodenfruchtiger Klee	820	15	90	5
<i>Triticosecale</i> Wittmack	Triticale	Triticale	Triticale	1090	15	150	5
<i>Triticum</i> spp.	Wheat	Blé	Weizen	1090	15	150	5
<i>Vicia faba</i> L. var. <i>major</i> Harz	Broad bean	Fève	Dicke Bohne (Puffbohne)	570	15	120	5
<i>Vigna unguiculata</i> (L.) Walp.	Cowpea	Dolique de Chine	Catjangbohne, Spargelbohne, Augenbohne	820	15	120	5
<i>Vitis</i> spp.	Grape	Vigne	Rebe	1090	20	150	8
<i>Zea mays</i> L.	Grain maize	Maïs	Mais	1090	15	170	5
<i>Zea mays</i> L.	Sweet corn, popcorn	Maïs sucré, popcorn	Zuckermais, Popkorn	570	15	90	5

**AUSTRALIA****Plant Variety Rights Act 1987\***

Consolidated text of the Plant Variety Rights Act 1987, Number 2 of 1987  
As amended by Amendment Act 1988, Number 111 of 1988,  
Amendment Act (No. 2) 1989, Number 15 of 1990  
and Amendment Act 1990, Number 134 of 1990

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\* Full title: An Act to provide for the granting of proprietary rights to persons originating certain new plant varieties, and for related purposes. [Assented to 13 March 1987]

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**Part I****PRELIMINARY****Section 1****Short Title**

This Act may be cited as the Plant Variety Rights Act 1987.

**Section 2****Commencement**

This Act shall come into operation on a day to be fixed by Proclamation.

**Section 3****Interpretation**

(1) In this Act, unless the contrary intention appears--

"accepted," in relation to an application, means accepted by the Secretary under section 18;

"Advisory Committee" means the Plant Variety Rights Advisory Committee established by section 44;

"applicant," in relation to an application, means the person for the time being shown in the application as the person making the application;

"application" means an application under section 15 for plant variety rights in respect of a new plant variety to which this Act applies;

"breeder," in relation to a new plant variety, means--

(a) subject to paragraph (c), in the case of a variety originated by one person only--that person;

(b) subject to paragraph (c), in the case of a variety originated by two or more persons (whether jointly, independently at the same time, independently at different times or otherwise)--each of those persons; or

(c) in the case of a variety originated--

(i) by a person in the course of performing duties or functions as a member or employee of a body (whether incorporate or unincorporate); or

(ii) by two or more persons in the course of performing duties as members or employees of such a body,

the body of which that person is a member or employee, or of which those persons are members or employees, as the case may be;



"Convention" means the International Convention for the Protection of New Varieties of Plants, a copy of the English text of which is set out in the Schedule\*;

"Court" means the Federal Court of Australia;

"genetic resources centre" means--

- (a) a place known as a Plant Genetic Resources Centre; or
- (b) a place that is a genetic resources centre because of a declaration in force under subsection 10(1);

"grantee," in relation to plant variety rights, means the person for the time being entered on the Register as the grantee of those rights;

"member" means a member of the Advisory Committee, and includes the Registrar;

"new plant variety" means a plant variety that--

- (a) was originated by a person;
- (b) is homogeneous having regard to the particular features of its sexual reproduction or vegetative propagation;
- (c) is stable; and
- (d) is distinguishable by one or more important morphological, physiological or other characteristics from all other plant varieties whose existence was a matter of common knowledge at the time when the application in respect of the variety was made;

"plant" does not include fungus, alga or bacterium;

"plant variety" includes cultivar, clone, hybrid and strain;

"plant variety rights" means the rights specified in section 12;

"Register" means the Register of Plant Variety Rights kept in pursuance of section 9;

"Registrar" means the Registrar of Plant Variety Rights;

"reproductive material," in relation to a plant, means--

- (a) a seed of that plant;
- (b) a cutting from that plant; or
- (c) any other part, or product, of that plant, from which another plant can be produced;

"Secretary" means the Secretary to the Department;

"sell," in relation to a plant or reproductive material of a plant, includes let on hire and exchange by way of barter;

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\* Not reproduced here.

"successor," in relation to a breeder of a new plant variety, means a person to whom the right of the breeder to make an application for plant variety rights in respect of that plant variety has been assigned or transmitted;

"will" includes a codicil.

(2) For the purpose of this Act, a plant variety in respect of which an application has been made shall be taken to be stable if, and only if, plants of the variety remain true to the description of a plant of the variety given in the application--

(a) except where paragraph (b) applies--after repeated reproduction or propagation of plants of the variety; or

(b) where the application specifies a particular cycle of reproduction or multiplication--at the end of each of those cycles.

(3) For the purposes of this Act, where a plant variety is originated by the selective breeding of plants, the person who carried out that breeding shall be taken to have originated that variety.

(3A) For the purposes of this Act, a person who selects a plant variety from a plant population that the person has grown, being a plant variety that is distinguishable by one or more important morphological, physiological or other characteristics from all other plant varieties whose existence at the time is a matter of common knowledge, is taken to have originated that variety.

(4) For the purposes of this Act, where a plant variety is originated by a humanly induced genetic mutation, the person who induced that mutation shall be taken to have originated that variety.

(5) Where--

(a) a person carries on activities in relation to particular plants or particular reproductive material of plants in the hope that a plant variety derived from those plants or that material will originate by natural processes; and

(b) a plant variety so derived, or apparently so derived, originates by natural processes,

that person shall be taken to have originated the plant variety referred to in paragraph (b).

(6) A reference in this Act to a test growing of a plant variety is a reference to a test involving--

(a) the growing, or the production and growing, of plants, or of two or more generations of plants, of that variety at a place that is, and under conditions that are, appropriate for the growing of plants of that variety;

(b) the observation of the characteristics, and the condition, of the plants grown at the various stages in their growth; and

(c) the recording of those observations.

(7) Where, for the purposes of this Act, the Secretary or another person (including a court and the Administrative Appeals Tribunal) is required to be satisfied that a plant variety in respect of which an application has been made is a new plant variety, that person shall, for the purpose of deciding whether the person is so satisfied, assume--

(a) that all the plant varieties whose existence was a matter of common knowledge when the application was made were constituted by, and constituted only by, the plant varieties that were in existence at the time when the application was made; and

(b) that the only plant varieties that were in existence at the time when the application was made were the plant varieties of the existence of which at that time that person is aware after making such inquiries, and consulting such publications readily available in Australia, as that person considers appropriate.

#### Section 4

##### **Act to Bind Crown**

(1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island.

(2) Nothing in this Act renders the Crown in right of the Commonwealth, of a State, of the Northern Territory or of Norfolk Island liable to be prosecuted for an offence.

#### Section 5

##### **Extent of Act**

Nothing in this Act requires or permits the grant of plant variety rights in respect of a new plant variety unless--

(a) the origination of that new plant variety constituted an invention for the purposes of paragraph 51(xviii) of the Constitution\*; or

(b) where Australia is a party to the Convention--the grant is appropriate to give effect to the obligations of Australia under the Convention.

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\* Paragraph 51(xviii) of the Constitution authorizes the Australian Parliament to legislate with respect to "copyrights, patents of inventions and designs and trade marks."

Part II

ADMINISTRATION

Section 6

**Registrar of Plant Variety Rights**

- (1) There shall be a Registrar of Plant Variety Rights.
- (2) The office of Registrar of Plant Variety Rights shall be an office in the Department.
- (3) The Registrar has such functions and powers as are conferred on the Registrar by this Act or by the regulations or are delegated to the Registrar by the Secretary under section 7.

Section 7

**Delegation**

- (1) The Secretary may, either generally or as otherwise provided in the instrument of delegation, by writing signed by the Secretary, delegate to the Registrar or to another officer of the Department all or any of the powers of the Secretary under this Act, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Secretary.
- (3) A delegation under this section does not prevent the exercise of a power by the Secretary.

Section 8

**Certain Persons not to Acquire Plant Variety Rights**

- (1) The Secretary, the Registrar or a person who, during the preceding 12 months has held, or performed the duties of, the office of Secretary or Registrar of Plant Variety Rights shall not apply for plant variety rights or acquire, otherwise than by will or by operation of law, any such rights or an interest in any such rights.

Penalty: \$2,000

- (2) A grant of plant variety rights applied for in contravention of subsection (1) or an acquisition of plant variety rights in contravention of that subsection is void.

### Section 9

#### **Register of Plant Variety Rights**

(1) The Registrar shall keep, at a place approved by the Secretary, a register, to be known as the Register of Plant Variety Rights, in which shall be entered particulars required to be entered by this Act or the regulations.

(2) The Registrar shall cause a copy of, or copies of, the Register to be kept and maintained in each State or Territory (other than the State or Territory where the place at which the Register is required to be kept is located) at the principal office of the Department in that State or Territory and at such other place or places (if any) in that State or Territory as the Secretary may direct.

### Section 10

#### **Genetic Resources Centres**

(1) The Secretary may, by writing signed by the Secretary, declare a specified place that, in the opinion of the Secretary, is suitable for the storage and maintenance of germ plasm material to be a genetic resources centre for the purposes of this Act.

(2) The person in charge of a genetic resources centre may do all things necessary or desirable to maintain the viability of the reproductive material of plants stored at that centre in accordance with section 33.

### Section 11

#### **Public Notice**

(1) In addition to giving public notice of matters of which the Secretary is required to give notice by this Act or by the regulations, the Secretary may give public notice of other matters relating to this Act where the Secretary considers it necessary or desirable to do so.

(2) Subject to subsections (3) and (5), where the Secretary is required or permitted to give public notice of a matter for the purposes of this Act, the Secretary shall do so by publishing notice in writing of the matter in the Gazette.

(3) Subject to subsection (4), where the Secretary considers that the volume of public notices of matters to be given for the purposes of this Act justifies the issue from time to time of a journal, to be called the Plant Varieties Journal, and the publication of notices of those matters in that journal instead of in the Gazette, the Secretary may issue that journal and, during the period in which the journal is being issued, shall give public notice of those matters by publishing notice in writing of them in that journal.

(4) The Secretary--

(a) shall not issue the Plant Varieties Journal unless and until he or she has given public notice of the intention to do so; and

(b) shall not cease to issue that journal unless and until he or she has given public notice of the intention to cease to issue the journal.

(5) Subject to subsection (6), where the Secretary considers that it is desirable to give public notices of matters for the purposes of this Act by publishing notice of those matters in a particular periodical other than the Gazette or the Plant Varieties Journal, the Secretary shall, unless it has become impossible to publish notice of those matters in that particular periodical, give public notice of those matters by publishing notice in writing of them in that particular periodical.

(6) The Secretary--

(a) shall not publish notices of matters in a particular periodical in accordance with subsection (5) unless and until he or she has given public notice of the intention to do so specifying the publication;

(b) where the Secretary wishes to discontinue publishing notices of matters in a particular periodical in accordance with subsection (5), the Secretary shall give public notice of his or her intention to so discontinue and, after giving that notice, shall so discontinue; and

(c) if it becomes impossible to publish notices of matters in accordance with subsection (5) in a particular journal because the journal has ceased publication or otherwise, the Secretary shall publish a notice in writing in the Gazette of the discontinuance of the publication of those notices in that publication.

### Part III

#### PLANT VARIETY RIGHTS

##### Division I - Preliminary

#### Section 12

##### Plant Variety Rights

(1) Plant variety rights, in respect of a new plant variety, are--

(a) the exclusive right to sell, including the right to license other persons to sell, plants of that variety;

(b) the exclusive right to sell, including the right to license other persons to sell, reproductive material of plants of that variety;

(c) the exclusive right to produce, including the right to license other persons to produce, plants of that variety for sale;

(d) the exclusive right to produce, including the right to license other persons to produce, reproductive material of plants of that variety for sale; and

(e) if the plants of that variety are plants of a prescribed genus or prescribed species--

(i) the exclusive right to produce asexually, including the right to license other persons to produce asexually, plants of that variety

for the commercial production of the fruit, flowers, or any other product, of those plants; and

- (ii) the exclusive right to produce asexually, including the right to license other persons to produce asexually, reproductive material of plants of that variety for the commercial production of the fruit, flowers, or any other product, of those plants.

(2) Plant variety rights in respect of a plant variety are subject to conditions imposed in respect of those rights by section 33 or under section 34.

(3) Plant variety rights referred to in subparagraph (1)(e)(i) or (ii) are subject to the condition that the grantee of those rights in respect of a plant variety shall license a person--

- (a) to produce asexually plants of that variety; or
- (b) to produce asexually reproductive material of plants of that variety; (as the case may be) unless the person refuses or fails to comply with any condition to which the licence may reasonably be, and is, subject.

### Section 13

#### **Plant Variety Rights to be Granted in Relation to Certain Varieties Only**

(1) Plant variety rights must not be granted in respect of a plant variety if the plants of that variety are plants of a genus or species declared by the regulations to be a genus or species to which this Act does not apply.

(2) The Governor-General shall not make a regulation declaring a genus or species to be a genus or species to which this Act does not apply unless the Governor-General has been informed by the Minister that the Minister has considered advice given by the Advisory Committee in relation to the desirability of the genus or species being declared to be a genus or species to which this Act does not apply.

(3) For the purposes of this section, a plant that is a hybrid derived from plants of different genera or species may be taken to be a plant of either of those genera or species.

### Section 14

#### **Plant Variety Rights not to be Granted in Respect of Varieties Previously Sold**

Where an application is made for plant variety rights in respect of a plant variety, those rights shall not be granted if there has been a sale of a plant, or reproductive material of a plant, of that variety by, or with the consent of, the breeder or a breeder, or a successor of the breeder or of a breeder, of the variety, and--

- (a) the sale took place in Australia before the making of the application; or
- (b) the sale took place in another country earlier than 6 years before the making of the application.

## Division 2 - Applications for Plant Variety Rights

Section 15**Application for Plant Variety Rights**

- (1) Subject to this Act, a breeder of a new plant variety may make an application to the Secretary for plant variety rights in respect of the variety.
- (2) A breeder of a new plant variety has the right under subsection (1) to make an application for plant variety rights in respect of that variety whether or not the breeder is an Australian citizen, whether or not the breeder is resident in Australia and whether the breeder originated the variety in Australia or in another country.
- (3) The right under subsection (1) of a breeder of a new plant variety to make an application for plant variety rights is personal property and is capable of assignment or of transmission by will or by operation of law (whether before or after the application has been made).
- (4) An assignment of a right to make an application for plant variety rights does not have effect unless it is in writing signed by or on behalf of the assignor.
- (5) Subject to subsection (6), where two or more persons are entitled to make applications for plant variety rights in respect of a new plant variety, whether by reason that they originated the variety jointly or independently or otherwise, those persons or some of those persons may make a joint application for those rights.
- (6) Where two or more persons (in this subsection referred to as the "breeders") originate a new plant variety jointly, one of those breeders or a successor of one of those breeders shall not make an application for plant variety rights in respect of that variety otherwise than jointly with, or with the consent in writing of, the other person, or each other person, entitled to make an application for those rights.

Section 16**Form of Application**

An application for plant variety rights in respect of a plant variety shall be in writing in a form approved by the Secretary, shall be lodged with the Secretary in the prescribed manner and shall contain--

- (a) the name of the person making the application;
- (b) where the applicant is the breeder of the variety, a statement that the applicant is the breeder of the variety;
- (c) where the applicant is not the breeder of the variety, the name and address of the breeder from whom the applicant derived the right to make an application and particulars of all relevant assignments and transmissions of the right to make the relevant application;



- (d) a description, or a description and photograph, of a plant of the variety sufficient to identify plants of that variety;
- (e) particulars of the characteristics that distinguish the variety from other varieties;
- (f) particulars of the manner in which the variety was originated;
- (g) the name of the variety;
- (h) particulars of any application for, or approval of a grant of, rights of any kind in respect of the variety in any other country;
- (j) particulars of any tests carried out to establish that the variety is homogeneous and stable (including particulars of any cycle of reproduction or multiplication for the purposes of paragraph 3(2)(b));
- (k) in the case of a plant variety originated outside Australia, particulars of any test growing of that variety carried out for the purpose of determining whether the variety will, if grown in Australia, have a particular characteristic;
- (m) an address in Australia for the service of documents on the applicant for the purposes of this Act; and
- (n) such other particulars (if any) as are prescribed.

### Section 17

#### **Names of New Plant Varieties**

- (1) The name of a new plant variety shall consist of a word or words (which may be an invented word or words) with or without the addition of--
  - (a) a letter or letters not constituting a word;
  - (b) a figure or figures; or
  - (c) both a letter or letters not constituting a word and a figure or figures.
- (2) A new plant variety shall not have--
  - (a) a name the use of which would be likely to deceive or cause confusion, including a name that is the same as, or is likely to be mistaken for, the name of another plant variety;
  - (b) a name the use of which would be contrary to law;
  - (c) a name that comprises or contains scandalous or offensive matter; or
  - (d) a name, or name of a kind, that is, at the time when the application is made, prohibited by the regulations.
- (3) The name of a new plant variety in respect of which an application is made shall comply with any recommendations of the International Code of Nomenclature for Cultivated Plants, as in force when the application is made, formulated and adopted by the International Commission for the Nomenclature of Cultivated Plants of the International Union of Biological Sciences that are accepted by Australia.

(4) The name of a new plant variety in respect of which an application is made shall not consist of, or include--

(a) the name of a natural person living at the time of the application, other than a person who has given written consent to the name of the plant variety;

(b) the name of a natural person who died within the period of ten years immediately preceding the application, other than a person who has given, or whose legal personal representative has given, written consent to the name of the plant variety; or

(c) the name of a corporation, organisation or institution, other than a corporation, organisation or institution that has given its written consent to the name of the plant variety.

#### Section 17A

##### **Priority of certain breeders**

(1) A person who--

(a) is the breeder of a new plant variety; and

(b) in a member State of the Union (other than Australia) within the meaning of the Convention, makes an application (in this section called the "foreign application") for all or any plant variety rights in respect of that variety;

has priority for the purposes of this Act in respect of that variety during the period of 12 months commencing on the day after the day on which that application is made.

(2) If--

(a) during that period of 12 months the person makes an application to the Secretary for protection under this Act in respect of that plant variety accompanied by a claim for priority in respect of the foreign application; and

(b) during that period but within 3 months of making that application, the person lodges with the Secretary a copy of the documents that constituted the foreign application certified to be a true copy of those documents by the authority that received the foreign application;

the person has priority in respect of that plant variety during such additional period, commencing at the end of that period of 12 months, as is prescribed.

(3) If, during that additional period, the person provides the Secretary with such particulars in relation to the plant variety as would be required if the person were making an application under section 16, the person is taken to have made an application under this Act for plant variety rights in respect of that variety.

### Section 18

#### **Lodging of Applications**

- (1) Where an application is lodged in respect of a new plant variety--
- (a) if the Secretary is satisfied that--
    - (i) the application complies with the requirement of section 16; and
    - (ii) the name of the variety complies with section 17; and
    - (iii) no other person has priority for the purposes of this Act in respect of that variety;
- the Secretary shall accept the application; or
- (b) if the Secretary is not so satisfied--the Secretary shall reject the application.
- (2) Where the Secretary accepts an application, the Secretary shall, within 30 days after accepting the application, give written notice to the applicant stating that the application has been accepted and, as soon as possible after notifying the applicant, give public notice of the acceptance of the application.
- (3) Where the Secretary rejects an application, the Secretary shall, within 30 days after rejecting the application, give written notice to the applicant stating that the application has been rejected and setting out the grounds for the rejection.

### Section 19

#### **Variation of Application**

- (1) Where, after an application has been accepted and before it is disposed of, the applicant requests the Secretary in writing to vary the application, the Secretary may, in his or her discretion, vary the application in accordance with the request.
- (2) Where, after an application has been accepted and before it is disposed of, the right of the applicant to make the application is assigned or transmitted to another person, that person shall forthwith request the Secretary, in writing, to vary the application so that that person is shown as the person making the application and the Secretary, if he or she is satisfied that that right has been so assigned or transmitted, shall so vary the application.
- (3) Where the Secretary complies with a request under subsection (1) or (2) to vary an application, the Secretary shall forthwith give written notice to the person who made the request stating that the application has been varied in accordance with the request.
- (4) Where the Secretary rejects a request under subsection (1) or (2) to vary an application, the Secretary shall forthwith give written notice to the person who made the request stating that the request has been rejected and setting out the grounds for the rejection.

(5) Where the Secretary complies with a request under subsection (2) to vary an application so that a person who claims to have been assigned the right to make the application is shown as the person making the application, the Secretary shall forthwith give written notice of particulars of the variation to the person who was the applicant before the variation was made.

(6) Where the Secretary rejects a request under subsection (2) to vary an application so that a person who claims to have been assigned the right to make the application would be shown as the person making the application, the Secretary shall forthwith give written notice to the applicant--

- (a) setting out particulars of the request;
- (b) stating that the request has been rejected; and
- (c) setting out the grounds for the rejection.

(7) Where an application is varied in pursuance of a request under subsection (1) in a manner that the Secretary considers to be significant, or is varied under subsection (2), the Secretary shall forthwith give public notice of particulars of the variation.

(8) A request by a person under subsection (2) shall give an address in Australia for the service of documents on the person for the purposes of this Act and--

- (a) where the Secretary complies with the request and the address so given is different from the address contained in the application in accordance with paragraph 16(m)--the Secretary shall vary the application so that the address so given is shown as the address for the service of documents on the applicant for the purposes of this Act; or
- (b) where the Secretary rejects the request--the notice to that person under subsection (4) shall be given by being posted by pre-paid post as a letter addressed to the person at the address so given.

## Section 20

### **Objections to Grant of Plant Variety Rights**

(1) Where public notice of an application for plant variety rights in respect of a plant variety or of the variation of such an application is given, any person who considers--

- (a) that the commercial interests of the person would be affected by the grant of those rights to the applicant; and
- (b) that the Secretary cannot be satisfied, in relation to that variety, of a matter referred to in paragraph 26(1)(a) (other than a matter referred to in subparagraph 26(1)(a)(viii)),

may, within six months after the giving of public notice of the application or any further time before the application is disposed of that is allowed by the Registrar, lodge with the Registrar written objection to the grant of those rights setting out particulars of the manner in which the person considers that the interests of the person would be affected and of the reasons why the person considers that the Secretary cannot be satisfied of that matter.

(2) Where an objection to the grant of plant variety rights is lodged under subsection (1), the Registrar shall cause a copy of that objection to be given to the applicant for those rights.

### Section 21

#### **Inspection of Applications and Objections**

A person may inspect an application, or an objection lodged under subsection 20(1), at any reasonable time and is entitled, upon payment of such fee (if any) as is prescribed, to be given a copy of the application or of the objection.

### Section 22

#### **Provisional Protection**

(1) Where an application for plant variety rights in respect of a plant variety has been accepted, the applicant shall, for the purpose of sections 40 and 41, be deemed to be the grantee of plant variety rights in respect of that plant variety during the period commencing on the acceptance of the application and ending--

- (a) when the application is disposed of; or
- (b) if the Secretary has given the applicant a notice under subsection (2)--at the expiration of the prescribed period after the notice is given,

whichever occurs first.

(2) Subject to subsection (3), where the Secretary is satisfied, in relation to an application for plant variety rights in respect of a plant variety, that--

- (a) plant variety rights will not be granted, or are unlikely to be granted, to the applicant in respect of that plant variety;
- (b) the applicant has given an undertaking to a person, whether or not for consideration, not to institute proceedings for the infringement of the rights of which the applicant is deemed to be the grantee by virtue of subsection (1),

the Secretary may give the applicant notice, in writing, that this section shall cease to apply to that variety.

(3) The Secretary shall not give notice under subsection (2) in relation to an application unless and until the Secretary has given the applicant particulars of the grounds for the proposed notice and a reasonable opportunity to make a written submission to the Secretary in relation to the proposed notice.

(4) Where a person ceases to be deemed to be the grantee of plant variety rights by virtue of a notice under subsection (2), the Secretary shall give public notice that the person has ceased to be so deemed.

(5) For the purposes of paragraph (1)(b), the prescribed period is the period commencing on the day on which the notice referred to in that paragraph is given and ending--

(a) subject to paragraph (b), at the expiration of the period within which an application may be made to the Administrative Appeals Tribunal for a review of the giving of the notice; or

(b) if such an application is made to the Administrative Appeals Tribunal --at the time at which the application is withdrawn or finally determined, whether by the Tribunal or by a court.

(6) Nothing in this section shall be taken to affect the powers of the Federal Court under subsection 44A(2) of the Administrative Appeals Tribunal Act 1975 where an appeal is instituted in that court from a decision of the Administrative Appeals Tribunal in respect of an application referred to in paragraph (5)(b).

(7) A person who is deemed by subsection (1) to be the grantee of plant variety rights in respect of a plant variety is not entitled to institute an action or proceeding for an infringement of those rights occurring during the period in respect of which the person is deemed by that subsection to be the grantee of those rights unless and until plant variety rights in respect of that plant variety are granted to the person under section 26.

### Section 23

#### **Characteristics of Plant Varieties Originated Outside Australia**

For the purposes of this Act, where a plant variety in respect of which an application has been accepted was originated outside Australia, the variety shall not be taken to have a particular characteristic unless--

(a) a test growing of the variety carried out in Australia has demonstrated that the variety has that characteristic; or

(aa) a test growing of the variety carried out at a place outside Australia has demonstrated that the variety has that characteristic and Australia is required, under an agreement between Australia and the country in which the test growing was carried out, to accept that the variety has that characteristic; or

(b) the Secretary is satisfied that--

(i) a test growing of the variety carried out at a place outside Australia has demonstrated that the variety has that characteristic; and

(ii) the test growing of the variety carried out at that place is equivalent to a test growing of the variety carried out in Australia; or

(c) the Secretary is satisfied that--

(i) a test growing of the variety carried out at a place outside Australia has demonstrated that the variety has that characteristic;

(ii) any test growing of the variety carried out in Australia would probably demonstrate that the variety has that characteristic; and

- (iii) if a test growing of the variety in Australia that would be sufficient to demonstrate whether the variety has that characteristic were to be carried out, the test growing would take longer than two years.

#### Section 24

##### **Test Growing of Plant Varieties**

(1) Where, in dealing with an application in respect of a plant variety, the Secretary considers it necessary that there should be a test growing, or a further test growing, of the variety--

- (a) for the purpose of determining whether the plant variety is homogeneous or stable; or

- (b) for the purpose of determining whether the variety will, if grown in Australia, have a particular characteristic,

the Secretary shall give written notice to the applicant--

- (c) stating that the Secretary considers that a test growing, or a further test growing, as the case may be, of the variety is necessary;

- (d) specifying the purpose of the test growing; and

- (e) requiring the applicant--

- (i) to supply the Secretary with sufficient plants, or sufficient reproductive material of plants, of the variety, as the case requires, and with any necessary information, to enable the variety to be test grown for the purpose so specified; or

- (ii) to have the variety test grown for the purpose so specified and to give the Secretary a copy of the records of observations made during the test growing,

whichever the Secretary deems appropriate,

and, if the notice contains the requirement referred to in subparagraph (e)(i) and the applicant complies with the requirement, the Secretary shall arrange to have the variety test grown.

(2) After the completion of the test growing of a plant variety arranged by the Secretary, any plants or reproductive material of plants used in, or resulting from, the test growing which are or is capable of being transported shall be delivered to the applicant for plant variety rights in respect of that plant variety.

#### Section 25

##### **Withdrawal of Application**

(1) An application may be withdrawn by the applicant.

(2) Where an application is withdrawn after public notice of the application has been given, the Secretary shall forthwith give public notice of that withdrawal.

## Division 3 - Grant of Plant Variety Rights

Section 26

## Grant of Plant Variety Rights

(1) Subject to this section, where an application for plant variety rights in respect of a plant variety is accepted--

(a) if the Secretary is satisfied that--

- (i) there is such a plant variety;
- (ii) the plant variety is a new plant variety;
- (iii) the applicant is entitled to make the application;
- (iv) the grant of those rights to the applicant is not prohibited by this Act;
- (v) those rights have not been granted to another person;
- (vi) there has been no earlier application for those rights that has not been withdrawn or otherwise disposed of;
- (vii) the name of the variety would comply with section 17; and
- (viii) all fees payable under this Act in relation to the application and the grant have been paid,

the Secretary shall grant those rights to the applicant; or

(b) if the Secretary is not so satisfied--the Secretary shall refuse to grant those rights to the applicant.

(2) The Secretary shall not grant, or refuse to grant, plant variety rights in respect of a plant variety unless a period of at least six months has elapsed since the giving of public notice of the application, or, if the application has been varied in pursuance of a request under subsection 19(1) in a manner that the Secretary considers to be significant, a period of six months has elapsed since the giving of public notice of particulars of the variation, or of the last such variation, as the case requires.

(3) The Secretary shall not refuse to grant plant variety rights unless the Secretary has given the applicant for the rights a reasonable opportunity to make a written submission to the Secretary in relation to the application.

(4) Where an objection to the grant of plant variety rights has been lodged under section 20, the Secretary shall not grant the rights unless the Secretary has given the person who lodged the objection a reasonable opportunity to make a written submission to the Secretary in relation to the objection.

(5) Plant variety rights shall be granted to a person by the issue to that person by the Secretary of a certificate, signed by the Secretary or by the Registrar, in a form approved by the Secretary and containing such particulars of the plant variety to which the rights relate as the Secretary considers appropriate.

(6) Where plant variety rights are granted to persons who made a joint application for those rights, those rights shall be granted to those persons jointly.



(7) Where the Secretary refuses to grant plant variety rights in respect of a plant variety, the Secretary shall, within 30 days after refusing, give written notice of the refusal to the applicant for the rights setting out the grounds for the refusal.

### Section 27

#### **Entry of Grant of Plant Variety Rights**

When the Secretary grants plant variety rights in respect of a plant variety, the Registrar shall enter in the Register--

- (a) a description, or a description and photograph, of a plant of that variety;
- (b) the name of the variety;
- (c) the name of the grantee;
- (d) the name and address of the breeder;
- (e) the address for the service of documents on the grantee for the purposes of this Act which is shown on the application for the rights;
- (f) the day on which the rights were granted; and
- (g) such other particulars relating to the grant as the Secretary considers appropriate.

### Section 28

#### **Notice of Grant of Plant Variety Rights**

Where the Secretary grants plant variety rights, the Secretary shall, as soon as possible after granting those rights, give public notice of the grant.

### Section 29

#### **Effect of Grant on Certain Persons**

(1) Where plant variety rights in respect of a plant variety are granted to a person, another person who was entitled to make an application for those rights (whether or not a person who originated that variety independently of the breeder), or the successor of such another person, is not entitled to any interest in those rights because of the entitlement to make the application or because of the grounds of the entitlement, but nothing in this subsection prevents a person from applying to the Secretary for the revocation of those rights or from instituting proceedings before a court or the Administrative Appeals Tribunal in respect of those rights.

(2) Where--

- (a) plant variety rights in respect of a new plant variety are granted to a person; and

(b) another person (in this subsection referred to as the "eligible person") was entitled, at law or in equity, to have the right to make an application for those plant variety rights assigned to the eligible person,

then the eligible person is entitled to have those plant variety rights assigned to the eligible person.

#### Division 4 - Miscellaneous

##### Section 30

##### **Nature of Plant Variety Rights**

(1) Plant variety rights are personal property and, subject to any conditions imposed under section 34, are capable of assignment or of transmission by will or by operation of law.

(2) An assignment of plant variety rights (otherwise than because of the order of a court) does not have effect unless it is in writing signed by or on behalf of the assignor.

(3) Where the grantee of plant variety rights gives another person a licence in respect of those rights, the licence binds every successor in title to the interest of the grantee in those rights to the same extent as it was binding on the grantee of those rights.

##### Section 31

##### **Assignment of Plant Variety Rights**

(1) Where plant variety rights are assigned or transmitted to a person, the person shall, within seven days after acquiring those rights, inform the Registrar in writing that the person has acquired those rights, giving particulars of the manner in which those rights were acquired, and the Registrar, if satisfied that the rights have been so assigned or transmitted, shall amend the Register and enter the name of that person on the Register as the grantee of those rights.

(2) Where, in accordance with subsection (1), the Registrar enters on the Register as the grantee of plant variety rights the name of a person who claims to have acquired those rights, the Registrar shall, within seven days after entering the name on the Register, give written notice to that person and to the person who was the grantee before the entry was made stating that the entry has been made.

(3) Where the Registrar is not satisfied that plant variety rights have been assigned or transmitted to a person (in this subsection referred to as the "claimant") who has informed the Registrar in accordance with subsection (1) that those rights have been assigned or transmitted to the claimant, the Registrar shall forthwith--

(a) give written notice to the claimant--

- (i) stating that the Registrar is not so satisfied; and
  - (ii) setting out the grounds on which the Registrar is not so satisfied; and
  - (b) give written notice to the grantee of those rights--
    - (i) setting out particulars of the information given by the claimant;
    - (ii) stating that the Registrar is not so satisfied; and
    - (iii) setting out the grounds on which the Registrar is not so satisfied.
- (4) A person who informs the Registrar in accordance with subsection (1) that plant variety rights have been assigned or transmitted to the person shall give written notice to the Registrar of an address in Australia for the service of documents on him or her in accordance with this Act and--
- (a) where the Registrar enters the name of that person on the Register in accordance with subsection (1) and that address is different from the address entered in the Register in accordance with paragraph 27(e)--the Registrar shall amend the Register so that the address so given is entered in the Register as the address for service of documents on the grantee for the purposes of this Act; or
  - (b) where the Registrar is not satisfied that those rights have been assigned or transmitted to that person--the notice to that person under paragraph (3)(a) shall be given by being posted by pre-paid post as a letter addressed to the person at that address.

### Section 32

#### **Duration of Plant Variety Rights**

Subject to this Act, plant variety rights in respect of a plant variety subsist for a period of 20 years commencing on the day on which the successful application for plant variety rights in respect of the plant variety was accepted.

### Section 33

#### **Supply of Reproductive Material, etc.**

- (1) Plant variety rights in respect of a plant variety are subject to the condition that the grantee of the rights shall comply with any notice given to the grantee by the Secretary under subsection (2) or (8).
- (2) Where plant variety rights are granted in respect of a plant variety, the Secretary may give the grantee of the rights written notice requiring the grantee, within 14 days of the giving of the notice or any further time that is allowed by the Secretary, to cause a specified quantity of reproductive material of plants of that variety to be delivered, at the expense of the grantee, to a specified genetic resources centre.
- (3) The quantity of reproductive material of plants of a variety specified in a notice under subsection (2) shall be the quantity that the Secretary considers would be sufficient to enable that variety to be kept in existence if there were no other reproductive material of plants of that variety.

(4) Where the reproductive material of plants is delivered to a genetic resources centre in accordance with the condition imposed on plant variety rights by subsection (1), the Secretary shall, subject to subsection (6), cause that material to be stored at a genetic resources centre.

(5) The delivery and storing of the reproductive material of plants in accordance with this section does not affect the ownership of the material but that material shall not be dealt with otherwise than for the purposes of this Act.

(6) The reproductive material of plants stored at a genetic resources centre may be used by the Secretary for the purposes of this Act, including the purposes of section 39.

(7) Without limiting subsections (5) and (6), where, in accordance with this section, the reproductive material of plants is stored at a genetic resources centre that is a place known as a National Plant Genetic Resources Centre, the material shall not form part of the collection known as the national gene bank collection and shall not be used for the purposes of that collection.

(8) Where plant variety rights are granted in respect of a plant variety, the Secretary may give the grantee of the rights written notice requiring the grantee, within 14 days of the giving of the notice or any further time that is allowed by the Secretary, to cause to be delivered to the Secretary a specimen of a plant of the variety suitable for deposition by the Secretary in a herbarium.

(9) Where a specimen of a plant is delivered in accordance with the condition imposed on plant variety rights by subsection (1), the Secretary shall cause the specimen to be deposited in a herbarium.

#### Section 34

##### **Plant Variety Rights Subject to Conditions**

(1) Where the Minister considers it necessary, in the public interest, that plant variety rights in respect of a new plant variety should be subject to conditions restricting the assignment of those rights, to conditions requiring, or relating to, the licensing of persons to sell, or produce for sale, plants, or reproductive material of plants, of that variety or to other conditions, the Minister may, at the time when those rights are granted or at any time while those rights subsist, by instrument under his or her hand, impose those conditions.

(2) Where the Minister imposes conditions on plant variety rights under subsection (1)--

(a) the Secretary shall give to the grantee a copy of the instrument setting out those conditions;

(b) the Secretary shall give public notice of those conditions; and

(c) the Registrar shall enter particulars of those conditions in the Register.

**Section 35****Revocation of Plant Variety Rights**

(1) The Secretary shall revoke the plant variety rights in respect of a plant variety if--

(a) The Secretary becomes satisfied that the plant variety was not a new plant variety or that facts exist which, if known before the grant of those rights, would have resulted in the refusal of the grant; or

(b) the grantee has failed to pay a prescribed fee payable in respect of those rights within one month after having been given notice, as prescribed, that that fee has become payable.

(2) The Secretary may revoke the plant variety rights in respect of a plant variety if the Secretary is satisfied that--

(a) the grantee has failed to comply, in relation to those rights, with the condition imposed by section 33 or with any condition imposed under section 34; or

(b) a person to whom those rights have been assigned or transmitted has failed to comply with section 31.

(3) Where the Secretary revokes plant variety rights in respect of a plant variety in accordance with this section, the Secretary shall, within seven days after the decision was taken, give written notice of the revocation to the grantee setting out the grounds for the revocation.

(4) The Secretary shall not revoke plant variety rights in accordance with this section unless and until the Secretary has given the grantee and any person to whom, the Secretary believes, those rights have been assigned or transmitted particulars of the grounds for the proposed revocation and given the grantee and any such person a reasonable opportunity to make a written submission to the Secretary in relation to the proposed revocation.

(5) The revocation of plant variety rights in respect of a plant variety in accordance with this section takes effect--

(a) subject to paragraph (b), at the expiration of the period within which an application may be made to the Administrative Appeals Tribunal for a review of the revocation; or

(b) if such an application is made to the Administrative Appeals Tribunal --at the time when the application is withdrawn or finally determined, whether by the Tribunal or by a court.

(6) Nothing in this section shall be taken to affect the powers of the Federal Court under subsection 44A(2) of the Administrative Appeals Tribunal Act 1975 where an appeal is instituted in that court from a decision of the Administrative Appeals Tribunal in respect of an application referred to in paragraph (5)(b).

(7) Any person whose interests are affected by the grant of plant variety rights in respect of a plant variety may apply to the Secretary for the revocation of those rights in accordance with this section.

(8) The Secretary shall consider any application made under subsection (7) for the revocation of plant variety rights and, if the Secretary decides not to revoke the rights, the Secretary shall, within seven days after the decision was taken, give written notice of the decision to the applicant setting out the grounds for the decision.

### Section 36

#### **Surrender of Plant Variety Rights**

(1) Subject to subsection (2), a grantee of plant variety rights may at any time, by giving notice to the Registrar, offer to surrender those rights, and the Registrar, after giving public notice of the offer and giving all parties interested an opportunity to make a written submission to the Registrar in relation to the offer, may, if the Registrar thinks fit, accept the offer and revoke those rights.

(2) Where an action or proceeding under section 41 or 42 in respect of plant variety rights is pending in a court, the Registrar shall not accept an offer for the surrender of, or revoke, those rights, except by leave of the court or by consent of the parties to the action or proceeding.

### Section 37

#### **Entry of Particulars of Revocation, etc.**

Where--

- (a) the revocation of plant variety rights in respect of a plant variety in accordance with section 35 takes effect;
- (b) plant variety rights are revoked in accordance with section 36; or
- (c) the Registrar is served with an office copy of an order of a court given under subsection 41(3) revoking plant variety rights,

then--

- (d) the Registrar shall enter particulars of the revocation in the Register; and
- (e) the Secretary shall give public notice of the revocation.

### Section 38

#### **Plant Variety Rights not to Restrict Sales for Food, Fibre, Fuel, etc.**

(1) Notwithstanding that plant variety rights subsist in respect of a plant variety, any person may--

- (a) propagate, grow and use plants of that variety for purposes other than commercial purposes;
- (b) sell plants of that variety for use as food or for another use that does not involve the growing of the plants or the production of plants of that variety;

(c) sell reproductive material of plants of that variety for use as food or for another use that does not involve the production of plants of that variety;

(d) sell with a farm or other place at which plants of that variety are grown any plants or reproductive material of plants of that variety at that place; or

(e) use, and do anything necessary or desirable for the purpose of using, plants or reproductive material of plants of the variety as an initial source of variation for the purpose of originating another new plant variety except where the person makes repeated use of plants or reproductive material of plants of the first-mentioned variety for the commercial production of the other variety.

(1A) In paragraph (1)(a), "commercial purpose", in relation to plants of a plant variety in respect of which plant variety rights referred to in subparagraph 12(1)(e)(i) or (ii) subsist, includes the commercial production of the fruit, flowers, or any other product, of those plants.

(2) The right of a person under paragraph (1)(b) to sell plants of a plant variety in respect of which plant variety rights subsist includes--

(a) the right of the person to use plants, or reproductive material of plants, of that variety purchased or otherwise acquired by the person without any infringement of those plant variety rights to--

(i) produce, otherwise than by asexual means, plants for the sale; or

(ii) produce plants, or reproductive material of plants, from which plants for the sale may be derived otherwise than by asexual means; and

(b) the right of the person to use plants, or reproductive material of plants derived by the person from plants, or reproductive material of plants, of that variety, purchased or otherwise acquired by the person without any infringement of those plant variety rights to--

(i) produce, otherwise than by asexual means, plants for the sale; or

(ii) produce plants, or reproductive material of plants, from which plants for the sale may be derived otherwise than by asexual means.

(3) The right of a person under paragraph (1)(c) to sell reproductive material of plants of a plant variety in respect of which plant variety rights subsist includes--

(a) the right of the person to use plants, or reproductive material of plants, of that variety purchased or otherwise acquired by the person without any infringement of those plant variety rights to--

(i) produce, otherwise than by asexual means, reproductive material of plants for the sale; or

(ii) produce plants, or reproductive material of plants, from which reproductive material of plants for the sale may be derived otherwise than by asexual means; and

(b) the right of the person to use plants, or reproductive material of plants derived by the person from plants, or reproductive material of plants, of that variety, purchased or otherwise acquired by the person without any infringement of those plant variety rights to--

- (i) produce, otherwise than by asexual means, reproductive material of plants for the sale; or
  - (ii) produce plants, or reproductive material of plants, from which reproductive material of plants for the sale may be derived otherwise than by asexual means.
- (4) Without limiting the generality of paragraph (1)(c), for the purposes of that paragraph, the use of reproductive material of a plant by way of allowing it to sprout and then eating it, or using it in the preparation of food, before it has developed further shall not be taken to be a use that involves the production of a plant.

### Section 39

#### Protection of Public Interest in New Plant Varieties

- (1) For the purposes of this Act, the reasonable requirements of the public with respect to a plant variety in respect of which plant variety rights subsist shall be deemed to be satisfied if--
- (a) where there is no demand or no significant demand for plants of that variety but there is a demand or a significant demand for reproductive material of plants of that variety--reproductive material of plants of that variety of reasonable quality is available for sale to the public at reasonable prices, or as gifts to the public, in sufficient quantities to meet demand; or
  - (b) in any other case--plants, or reproductive material of plants, of that variety of reasonable quality are available for sale to the public at reasonable prices, or as gifts to the public, in sufficient quantities to meet demand.
- (2) The grantee of plant variety rights in respect of a plant variety shall, subject to any conditions imposed under section 34, take all reasonable steps to ensure that the reasonable requirements of the public with respect to that plant variety are satisfied.
- (3) For the purpose of ensuring that the reasonable requirements of the public with respect to a plant variety in respect of which plant variety rights subsist are satisfied, the Secretary, in accordance with subsections (4) to (10), inclusive, may, on behalf of the grantee of those rights--
- (a) license a person or persons whom the Secretary considers appropriate to sell plants of that variety;
  - (b) license a person or persons whom the Secretary considers appropriate to sell reproductive material of plants of that variety;
  - (c) license a person or persons whom the Secretary considers appropriate to produce plants of that variety for sale; or
  - (d) license a person or persons whom the Secretary considers appropriate to produce reproductive material of plants of that variety for sale,
- during such period as the Secretary considers appropriate.



(4) Where, at any time later than two years after the grant of plant variety rights in respect of a plant variety, a person considers that the grantee of those rights is failing to comply with subsection (2) in relation to that variety and that the failure affects the interests of that person, that person may, in writing, request the Secretary to exercise a relevant power or powers under subsection (3) in relation to that variety.

(5) A request by a person under subsection (4) in relation to a plant variety shall--

(a) set out the reasons why that person considers that the grantee of plant variety rights in respect of that variety is failing to comply with subsection (2);

(b) give particulars of the way in which the person considers that the failure affects the interests of the person; and

(c) give an address for the purpose of a notice to the person under subsection (7).

(6) Where a request under subsection (4) is made to the Secretary in relation to a plant variety, the Secretary shall give the grantee of plant variety rights in respect of that variety--

(a) a copy of the request; and

(b) a written invitation to furnish to the Secretary, within one month after the day on which the invitation is given, a written statement setting out reasons why the Secretary should be satisfied that the grantee--

(i) is complying with subsection (2) in relation to that variety; or

(ii) will so comply within a reasonable time.

(7) Where a request is made to the Secretary under subsection (4) to exercise a power or powers under subsection (3) in relation to a plant variety, the Secretary shall, after considering the request and any statement furnished by the grantee of plant variety rights in respect of that variety in response to the invitation under paragraph (6)(b), decide whether or not to exercise the power or powers concerned and shall, within 30 days after the decision was taken--

(a) give written notice of his or her decision to the grantee of plant variety rights in respect of that plant variety setting out the grounds for the decision; and

(b) cause written notice of his or her decision to be posted by pre-paid post as a letter addressed to the person who made the request at the address given by that person in accordance with paragraph (5)(c) setting out the grounds for the decision.

(8) Where the Secretary proposes to exercise a power under subsection (3) in relation to a plant variety, the Secretary shall give public notice--

(a) identifying the variety;

(b) setting out particulars of the thing or things that the Secretary proposes to license persons to do and of the periods for which the Secretary proposes to license them; and

(c) inviting persons to apply in writing to the Secretary, within one month after the giving of public notice, to be licensed to do that thing, or to do any of those things, as the case requires, in relation to that variety,

and the Secretary shall not exercise that power without considering all applications in response to the invitation.

(9) The Secretary shall not license a person under subsection (3) in relation to a plant variety unless, at least one month before so doing, the Secretary--

(a) gave written notice to each person who applied to be licensed in response to the relevant invitation given under subsection (8); and

(b) gave public notice,

of the name or names of the person or persons whom the Secretary proposes to license.

(10) A licence granted to a person by the Secretary under subsection (3) on behalf of the grantee of plant variety rights in respect of a plant variety shall be granted on such terms and conditions as the Secretary determines, being terms and conditions that the Secretary considers would be the terms and conditions of the licence if it were being granted by the grantee in the normal course of business.

(11) Where--

(a) a licence has been granted to a person under subsection (3) to produce plants, or reproductive material of plants, of a plant variety; and

(b) the Secretary is satisfied that, unless the powers of the Secretary under this subsection are exercised, that person will be unable to obtain reproductive material of plants of that variety at a reasonable price or without charge,

the Secretary may, on behalf of the grantee of those rights, make available to that person reproductive material of plants of that variety stored at a genetic resources centre under subsection 33(4).

#### Section 40

##### **Infringement of Plant Variety Rights**

Subject to sections 38 and 39, the plant variety rights of a grantee in respect of a plant variety are infringed by--

(a) a person who, not being licensed by the grantee to sell plants of that variety, sells, or holds himself, herself or itself out as being willing to sell, plants of that variety;

(b) a person who, not being licensed by the grantee to sell reproductive material of plants of that variety, sells, or holds himself, herself or itself out as being willing to sell, reproductive material of plants of that variety;

(c) a person who, not being licensed by the grantee to produce plants of that variety for sale, produces plants of that variety for sale;

(d) a person who, not being licensed by the grantee to produce reproductive material of plants of that variety for sale, produces reproductive material of plants of that variety for sale;

(da) a person who, not being licensed by the grantee to produce asexually plants of that variety for the commercial production of the fruit, flowers, or any other product, of those plants, so produces plants of that variety for the commercial production of such fruit, flowers or other product;

(db) a person who, not being licensed by the grantee to produce asexually reproductive material of plants of that variety for the commercial production of the fruit, flowers, or any other product, of those plants, so produces reproductive material of plants of that variety for the commercial production of such fruit, flowers or other product;

(e) a person who, being a person to whom a licence has been granted in respect of that plant variety, does not comply with a term or condition of the licence; or

(f) a person who uses the name of that plant variety, being the name entered in the Register, in relation to any other plant variety or in relation to any plant other than a plant of the first-mentioned variety.

#### Section 41

##### **Actions for Infringement of Plant Variety Rights**

(1) An action or proceeding for an infringement of plant variety rights may be instituted in the Court.

(2) A defendant in an action or proceeding for an infringement of plant variety rights in respect of a plant variety may apply by way of counter-claim in the action or proceeding for the revocation of the plant variety rights--

(a) on the ground that the plant variety was not a new plant variety; or

(b) on the ground that facts exist which, if known to the Secretary before the grant of those rights, would have resulted in the refusal of the grant.

(3) If, in an action or proceeding for an infringement of plant variety rights in respect of a plant variety in which a defendant has applied by way of counter-claim for the revocation of those rights on a ground referred to in paragraph (2)(a) or (b), the court is satisfied that the ground exists, the court may revoke those rights.

(4) Where, in an action or proceeding for an infringement of plant variety rights, the court, on an application by the defendant by way of counter-claim, revokes the plant variety rights, the court shall order the defendant to serve on the Registrar an office copy of the order revoking the plant variety rights.

## Section 42

### **Declaration as to Non-Infringement**

(1) A person who desires to sell a plant or reproductive material of a plant, or to produce a plant or reproductive material of a plant for sale, may, by action in the Court against the grantee of plant variety rights in respect of a new plant variety, claim a declaration that the sale or production of the plant or reproductive material, as the case requires, would not constitute an infringement of those plant variety rights and may do so although no assertion of the infringement has been made by the grantee of the plant variety rights.

(2) The Court shall not make a declaration sought in an action under subsection (1) in relation to a plant or reproductive material of a plant unless--

(a) the plaintiff--

- (i) has applied in writing to the defendant for an admission in writing to the effect of the declaration sought;
- (ii) has furnished the defendant with full particulars in writing of the plant or reproductive material, as the case may be; and
- (iii) has undertaken to pay a reasonable sum for the expenses of the defendant in obtaining advice in respect of the declaration sought; and

(b) the defendant has refused or failed to make such an admission.

(3) The costs of all parties in proceedings for a declaration under this section shall, unless the prescribed court otherwise orders, be paid by the person seeking the declaration.

(4) The validity of a grant of plant variety rights shall not be called in question in proceedings for a declaration under this section and the making of, or refusal to make, the declaration does not imply that the grant of plant variety rights is, or is not, valid.

## Section 43

### **Jurisdiction of Court**

(1) The Court has jurisdiction with respect to matters arising under this Act in respect of which actions or proceedings may, under this Act, be instituted in that court and that jurisdiction is exclusive of the jurisdiction of all other courts, other than the jurisdiction of the High Court under section 75 of the Constitution.

(2) The relief that the Court may grant in an action or proceeding for infringement of plant variety rights includes an injunction (subject to such terms, if any, as the court thinks fit) and, at the option of the plaintiff, either damages or an account of profits.

(3) The Court may refuse to award damages, or to make an order for an account of profits, against a person in respect of an infringement of plant variety rights in relation to a plant variety if the person satisfies the court that,

at the time of the infringement, the person was not aware, and had no reasonable grounds for suspecting, that plant variety rights existed in relation to that plant variety.

(4) The regulations may make provision for and in relation to the practice and procedure of the Court in actions or proceedings under this Act, including provision prescribing the time within which any action or proceeding may be instituted, or any other act or thing may be done, and providing for the extension of any such time.

(5) Subsection (4) shall not be read as limiting the power of the Judges of the Court or a majority of them to make rules of Court under section 59 of the Federal Court of Australia Act 1976 not inconsistent with the regulations referred to in that subsection.

#### Part IV

#### PLANT VARIETY RIGHTS ADVISORY COMMITTEE

##### Section 44

##### Establishment of Advisory Committee

(1) There is established by this Act a Committee by the name of the Plant Variety Rights Advisory Committee.

(2) The functions of the Advisory Committee are--

(a) at the request of the Minister, to advise the Minister on the desirability of a genus or species being declared by the regulations to be a genus or species to which this Act applies; and

(b) to advise the Secretary on such technical matters arising under this Act, and such other matters relating to the administration of this Act, as the Secretary refers to the Advisory Committee.

##### Section 45

##### Membership of Advisory Committee

(1) The Advisory Committee shall consist of--

(a) the Registrar;

(b) two members who, in the opinion of the Minister, are appropriate persons to represent breeders, and likely breeders, of new plant varieties;

(c) one member who, in the opinion of the Minister, is an appropriate person to represent producers, and likely producers, of new plant varieties;

(d) one member who, in the opinion of the Minister, is an appropriate person to represent the interests of consumers, and likely consumers, of new plant varieties or of the products of new plant varieties; and

(e) two other members who, in the opinion of the Minister, possess qualifications or experience that are appropriate for a member of the Advisory Committee.

(2) The members, other than the Registrar, shall be appointed by the Minister.

(3) The members hold office as part-time members.

(4) The members, other than the Registrar, hold office during the pleasure of the Minister.

(5) A member, other than the Registrar, may resign his or her office by writing signed by the member and delivered to the Minister.

#### Section 46

##### **Remuneration and Allowances**

(1) The members referred to in paragraph 45(1)(b), (c), (d) and (e) shall be paid--

- (a) such remuneration as is determined by the Remuneration Tribunal; and
- (b) such allowances as are prescribed.

(2) Subsection (1) has effect subject to the Remuneration Tribunals Act 1973.

#### Section 47

##### **Disclosure of Interests**

(1) A member who has a direct or indirect pecuniary interest in a matter being considered at a meeting of the Advisory Committee shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at the meeting.

(2) A disclosure under subsection (1) in relation to a matter shall--

- (a) be recorded in the minutes of the meeting of the Advisory Committee; and
- (b) be made known in any advice given by the Committee in relation to that matter.

#### Section 48

##### **Meetings**

(1) The Registrar may convene such meetings of the Advisory Committee as are necessary for the purposes of the performance of the functions of the Advisory Committee.

(2) At a meeting of the Advisory Committee, four members constitute a quorum.

(3) The Registrar shall preside at a meeting of the Advisory Committee at which the Registrar is present, but, if the Registrar is not present, the members present shall elect one of their number to preside at the meeting.

(4) Subject to subsection (2), the procedure to be followed at a meeting of the Advisory Committee shall be as determined by the Advisory Committee.

## **Part V**

### **MISCELLANEOUS**

#### **Section 49**

##### **Inspection of Register**

A person may inspect the Register at any reasonable time and is entitled, upon payment of such fee (if any) as is prescribed, to be given a copy of an entry in the Register.

#### **Section 50**

##### **Agents May Act in Plant Variety Rights Matters**

Subject to any other law of the Commonwealth, including the High Court Rules and the Federal Court Rules, an application, a written submission or any other document may be prepared or lodged, and any business may be transacted, for the purposes of this Act, on behalf of a person by another person.

#### **Section 51**

##### **Service of Documents**

(1) Where the Secretary or the Registrar is required by this Act to give a written notice or other document to an applicant for, or a grantee of, plant variety rights, that document shall be given by being posted by pre-paid post as a letter addressed to the applicant or the grantee at the address for service shown on the application or entered in the Register, as the case requires.

(2) Where the Secretary or the Registrar is required by this Act to give a written notice or other document to a person who has been an applicant for, or a grantee of, plant variety rights, that document shall be given by being posted by pre-paid post as a letter addressed to that person at the address for service of that person that was formerly shown on the application for those rights or entered in the Register in respect of those rights, as the case may be.

Section 52**Offences**

(1) A person shall not knowingly make a false statement in an application or other document given to the Secretary or the Registrar for the purposes of this Act.

**Penalty:**

(a) in the case of a natural person--\$1,000 or imprisonment for six months, or both; or

(b) in the case of a body corporate--\$5,000.

(2) A person shall not:

(a) falsely represent to another person that he, she or it is the grantee of plant variety rights in respect of a plant variety;

(b) falsely represent to another person that he, she or it is deemed to be the grantee of plant variety rights in respect of a plant variety by virtue of subsection 22(1); or

(c) falsely represent that a plant is a plant of a variety in respect of which plant variety rights have been granted.

**Penalty for contravention of this subsection:**

(a) in the case of a natural person--\$1,000; or

(b) in the case of a body corporate--\$5,000.

(3) Where, in proceedings for an offence against subsection (1) or (2) in respect of any conduct engaged in by a corporation, it is necessary to establish the state of mind of the corporation, it is sufficient to show that a director, servant or agent of the corporation, being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

(4) Any conduct engaged in on behalf of a corporation--

(a) by a director, servant or agent of the corporation within the scope of his or her actual or apparent authority; or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the corporation, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent,

shall be deemed, for the purposes of a provision of this Act that creates an offence, to have been engaged in by the corporation.

(5) A reference in subsection (3) to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the intention, opinion, belief or purpose.



### Section 53

#### **Applications for Review**

(1) Applications may be made to the Administrative Appeals Tribunal for review of--

- (a) a decision of the Secretary under paragraph 18(1)(b) rejecting an application;
- (b) a decision of the Secretary to refuse to vary an application upon a request made under subsection 19(1) or (2);
- (c) a decision of the Registrar under subsection 20(1) to allow, or refuse to allow, further time for the lodging of an objection;
- (d) a decision of the Secretary to give a notice under subsection 22(2);
- (e) a decision of the Secretary that the Secretary is satisfied, or not satisfied, of a matter for the purposes of paragraph 23(b);
- (f) a decision of the Secretary that the Secretary is satisfied, or not satisfied, of a matter for the purposes of paragraph 23(c);
- (g) a requirement by the Secretary under section 24;
- (h) a decision of the Secretary to grant, or refuse to grant, plant variety rights under section 26;
- (j) a decision of the Registrar to amend, or refuse to amend, the Register under section 31;
- (k) a decision of the Secretary under subsection 33(2) or (8) to allow, or refuse to allow, further time for a delivery;
- (m) a decision by the Minister to impose conditions under subsection 34(1);
- (n) a decision by the Secretary to revoke plant variety rights under section 35;
- (p) a decision by the Secretary under subsection 35(8) not to revoke plant variety rights;
- (q) a decision of the Secretary under subsection 39(7) to exercise a power under subsection 39(3);
- (r) a decision of the Secretary to license a person under subsection 39(3) or the refusal of the Secretary to license under that subsection a person who applied to be so licensed in response to an invitation under paragraph 39(8)(c);
- (s) the determination by the Secretary of the terms and conditions of a licence in accordance with subsection 39(10); or
- (t) a decision of the Secretary to make reproductive material of plants available under subsection 39(11).

(2) The Administrative Appeals Tribunal does not have power under subsection 29(7) of the Administrative Appeals Tribunal Act 1975 to extend the time for making an application to that Tribunal for a review of a decision referred to in paragraph (1)(q).

- (3) The Secretary shall give public notice of--
- (a) any application made under subsection (1);
  - (b) any decision of the Administrative Appeals Tribunal on such an application; and
  - (c) any decision of a court in relation to, or arising out of--
    - (i) such an application; or
    - (ii) a decision of the Administrative Appeals Tribunal on such an application.
- (4) In subsections (1) and (2), "decision" has the same meaning as in the Administrative Appeals Tribunal Act 1975.

#### Section 54

##### **Statement to Accompany Notice of Decisions**

(1) Where the Minister, the Secretary, a delegate of the Secretary or the Registrar makes a determination, decision or requirement of a kind referred to in subsection 53(1) and gives to the person or persons whose interests are affected by the determination, decision or requirement, notice in writing of the making of the determination, decision or requirement, that notice shall include a statement to the effect that, subject to the Administrative Appeals Tribunal Act 1975, application may be made to the Administrative Appeals Tribunal for review of the determination, decision or requirement to which the notice relates by or on behalf of the person or persons whose interests are affected by the determination, decision or requirement.

(2) Any failure to comply with the requirements of subsection (1) in relation to a determination, decision or requirement does not affect the validity of the determination, decision or requirement.

#### Section 55

##### **Regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, prescribing fees, including--

- (a) fees on applications for plant variety rights;
- (b) fees payable by grantees of plant variety rights at specified intervals or on specified dates; and
- (c) fees to meet costs incurred in the test growing of plants under section 24.

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**NEWSLETTER**


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**MEMBER STATES**


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**New Zealand: Modification of Fees**

By virtue of the Plant Variety Rights (Fees) Order 1991 of March 11, 1991, the new tariff of fees came into effect on May 1, 1991. The main fees are now as follows (in New Zealand Dollars):

**Note:** In the case of foreign-owned varieties the fees not in brackets, which exclude Goods and Service Tax (GST), apply.  
In the case of New Zealand-owned varieties the fees in brackets, which include Goods and Service Tax (GST) (12.5%), apply.

Fees Variable According to Plant Taxa	Herbage Agricultural crops Vegetables		Fruit or nut plants		Other plants	
	excl. GST	(incl. GST)	excl. GST	(incl. GST)	excl. GST	(incl. GST)
Application for grant	500	(562.50)	400	(450.00)	250	(281.25)
Examination of data (in- cluding any material) supplied by applicant - within 6 months of application	600	(675.00)	300	(337.50)	230	(258.75)
later	800	(900.00)	300	(337.50)	230	(258.75)
Test trial by Ministry	-	-	500	(562.50)	450	(506.25)
Issue of grant	500	(562.50)	120	(135.00)	100	(112.50)
Annual grant fee - paid by anniversary of grant	450	(506.25)	230	(258.75)	180	(202.50)
paid later	490	(551.25)	260	(292.50)	210	(236.25)

Fixed Fees	excl. GST	(incl. GST)
Rectification of error or irregularity	24.89	(28.00)
Issue of duplicate grant document	24.89	(28.00)
Issue of certified true copy of application, grant document	15.11	(17.00)
Rate for information search and photocopying	50.00/hr	(56.25/hr)
Request under section 21(1) of the Act (compulsory licences and sales)	600.00	(675.00)
Application to limit, vary, extend, or revoke compulsory licence or order	300.00	(337.50)

### South Africa: Modification of Fees

By virtue of the Regulations Relating to Plant Breeders' Rights (Amendment No. R. 76 of January 18, 1991 (Government Gazette of January 18, 1991), the fees have been increased with effect from February 1, 1991. The new examination fees and annual fees which vary according to plant taxa are given in the table starting on page 31, while other fixed fees are given in the table below (in Rands).

#### FEES PAYABLE IN SOUTH AFRICA

No.	Purpose	Amount
1	Application for a plant breeder's right (Reg. 4(2)(e))	R360 each
2	Priority claim for the grant of a plant breeder's right (Reg. 5(2)(c))	R80 each
3	Objection to the grant of a plant breeder's Right (Reg. 5(2)(c))	R80 each
4	Furnishing of the results of tests and trials to the appropriate authority in a convention country or an agreement country (Reg. 10(3))	R960 each
5	Application for the issue of a compulsory licence (Reg. 15(1)(d))	R160 each
6	Notice of the transfer of a plant breeder's right (Reg. 16(2)(b))	R80 each
7	Application for the alteration or supplementation of the denomination of a variety (Reg. 17(1)(b))	R760 each
8	Objection to an application for the alteration or supplementation of the denomination of a variety (Reg. 17(3)(e))	R80 each
9	Objections to intended termination of a plant breeder's right (Reg. 18(1)(f))	R80 each
10	Notice of the voluntary surrender of a plant breeder's right (Reg. 19(1)(b)(i))	R80 each

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No.	Purpose	Amount
11	Inspection of the register of plant breeders' rights (Reg. 22(2))	R50 per occasion
12	Application to inspect documents pertaining to a plant breeder's right, or for a certificate by the registrar (Reg. 23(2))	R40 per occasion or certificate
13	Application for a copy of particulars in the register or of documents pertaining to a plant breeder's right (Reg. 23(2))	R3,50 per page
14	Lodging of appeal against a decision or action taken by the registrar (Reg. 24(1)(d))	R345 each

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MISCELLANEOUS INFORMATION

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**United States of America: Microfiche Publication  
of U.S. Plant Patents**

Research Publications, official supplier of microfilm services to the U.S. Patent and Trademark Office and its depository libraries has extended its services to the weekly delivery of U.S. plant patents on color microfiche to academic and commercial circles.

Since the first plant patent was issued in 1931, over 7.000 asexually reproduced varieties have been protected. At present the U.S. Patent and Trademark Office issues over ten plant patents each week.

The collection is arranged in the following three binders:

- 1) microfiche of the plant patents
- 2) short abstract of the plant patents
- 3) index arranged by inventor (breeder), assignee, title and classification

Subscribers will receive approximately two color microfiches per week. The complete backfile covering the years 1931-1990 is also available.

Price (as of December 15, 1990): 1991 Subscription: US \$ 350  
1931-1990 Backfiles: US \$ 3,500

Shipping and handling is charged at 7% (15% airmail); VAT will be added within the United Kingdom.

Address: Research Publications, P.O. Box 45, Reading, Berkshire  
RG1 8HF, England

(Tel: (44) 734-58.32.47; Telex: 848 336 RPL G; Fax: (44) 734-59.13.25

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**CALENDAR**

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**UPOV Meetings in 1992**

January 15 to 17 (Paris, France)	Technical Working Party for Vegetables
April 8 and 9	Administrative and Legal Committee
June 2 to 4 (Wageningen, Netherlands)	Technical Working Party on Automation and Computer Programs
June 16 to 19 (Menstrup Kro, Denmark)	Technical Working Party for Agricultural Crops
June 23 to 26 (Germany)	Technical Working Party for Vegetables
August 24 to September 2 (Nelspruit, South Africa)	Technical Working Party for Fruit Crops
August 27 to September 7 (Stellenbosch, South Africa)	Technical Working Party for Ornamental Plants and Forest Trees
October 26 and 27	Administrative and Legal Committee
October 28	Consultative Committee
October 29	Council
October 30	Meeting with International Organizations

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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.

"Plant Variety Protection" is a UPOV publication that reports on national and international events in its field of competence and in related areas. It is published in English only--although some items are trilingual (English, French and German)--at irregular intervals, usually at a rate of four issues a year. Requests for addition to the mailing list may be placed with:

The International Union for the Protection of New Varieties of Plants (UPOV)  
34, chemin des Colombettes, 1211 Geneva 20 (POB 18)

Telephone: (022) 730.91.11 - Telex: 412 912 ompi ch - Telefax: (022) 733.54.28