

Content

Title :	The Enforcement Rules for the Plant Variety and Plant Seed Act Ch
Date :	2005.06.29
Legislative :	1.Promulgated on July 27, 1990. 2.Amendment to Article 22 promulgated on January 31, 2000. 3.Amendment to Article 16 promulgated on December 16, 2004. 4.Amendment to all Articles promulgated on June 29, 2005.
Content :	<p>Article 1</p> <p>These enforcement rules are enacted in accordance with Article 64 of the Plant Variety and Plant Seed Act (hereinafter referred to as "this Act").</p> <p>Article 2</p> <p>Those plant variety right applications and plant seed enterprise registration applications specified in this Act shall be written in this country's characters and submitted to the competent authority.</p> <p>If the supporting documents to be attached to an application in the preceding Paragraph are in a foreign language, the competent authority may, when deemed necessary, notify the applicant to attach a translation or a summary translation in this country's characters.</p> <p>Translated scientific terms in the application form and attached documents shall in general follow the translations of the National Institute for Compilation and Translation, and the original foreign language terms shall be included as notes. The scientific names of plants shall be included.</p> <p>Article 3</p> <p>An applicant may appoint an agent. The applicant shall appoint an agent to perform the application if the applicant has no residence, office location or place of business in R.O.C. territory.</p> <p>The applicant shall submit a letter of appointment stating the extent of the agent's authorization and serving address to the competent authority when appointing an agent.</p> <p>The applicant shall notify the competent authority in writing prior to a change of the extent of an agent's authorization, otherwise the said change shall not take effect.</p> <p>Article 4</p> <p>The applicant shall apply to the competent authority for a change whenever the applicant's name, title, residence, office location or place of business changes.</p> <p>Article 5</p> <p>Supporting documents that must be attached in accordance with this Act and these enforcement rules shall be original copies or progenitors.</p> <p>Photocopies may be attached, however, if the applicant has the concerned parties explain that the photocopies are identical with the original or</p>

formal copies. However, documents issued by the government of a foreign country certifying the government's acceptance of such foreign application as specified in Article 17, Paragraph 2 of this Act shall be progenitors. Original copies or progenitors of documents may be returned to the applicant after verified by the competent authority.

Article 6

With regard to the serving of application forms in this Act, those forms submitted in written form shall be dated by the date served to the competent authority; and those forms submitted by registered mail shall be dated by the date on the postmark made on the day mailed.

Article 7

With regard to plant varieties not announced in accordance with Article 4 of this Act, concerned party may clearly state the following items and recommend a public announcement to the central competent authority:

1. name and residence of the recommender. The name, office location or place of business, and name and contact telephone of the legal representative or manager if the recommender is a juristic person or organization;
2. the plant species/genus and its scientific name;
3. the reasons for the recommended public announcement;
4. a trait table for the main cultivated varieties of that species/genus;
5. propagation methods;
6. cultivation methods;
7. seal or signature of the recommending person; and
8. date of submission.

Article 8

Those who seek to inherit or be assigned a plant variety right or the right to apply for a plant variety right shall fill out an application form, attach the following documents, and apply to the central competent authority:

1. Inheritance: Documents verifying death and inheritance.
2. Assignment: Assignment contract or supporting documents presented by the assignee. Documents verifying merger or acquisition in the case of those companies taken over due to merger or acquisition.

The plant variety right certificate shall be submitted when a plant variety right is inherited or assigned in the preceding Paragraph

Article 9

Plant variety right application forms shall state the following items:

1. the plant species/genus, scientific name, and the denomination of the variety;
2. the applicant's nationality, name, and residence. The name, office location or place of business, name, residence, and phone number of the legal

representative

or manager if the applicant is a juristic person or organization;

3. name and residence of the breeder;
4. the agent's name, residence, and phone number if the applicant has assigned
an agent;
5. claimed items; and
6. a list of attached documents.

Article 10

Applicants claiming any of the following items when applying for a plant variety right in accordance with Article 14, Paragraph 1 of this Act shall so state in their application that:

1. the period specified in Article 12, Paragraph 2 of this Act is not exceeded.
2. those who claim a priority right in accordance with Article 17 of this Act shall
state the country of application, the application case number, and the application
date.
3. any business secrets that shall not be disclosed.

Article 11

If the origin of a plant variety as specified in Article 14, Paragraph 2, Subparagraph 4 of this Act is foreign, the central competent authority may, when deemed necessary, notify the applicant to attach the foreign application case number, search information or receive results within a specified time limit; review will look at existing information when some information has not been submitted within the specified time limit.

Article 12

If the application form of a plant variety right applicant claiming a priority right is deficient in its statements of information or supporting documents, after the applicant has been notified to remedy such deficiency within a specified time limit, the remedied portion shall be deemed to be already part of the prior claim for priority right application, and the original application date shall be taken to be the application date.

Article 13

Central competent authority's plant variety right approval and public announcement performed in accordance with Article 20, Paragraph 2 of this Act shall state the following items:

1. application case number and date;
2. public announcement case number and date;
3. certificate number and issuance date;
4. plant species/genus, scientific name, and the denomination of the variety;
5. summary of variety characteristics;
6. the name or title of the holder of the plant variety right; and
7. the rights period.

If the plant variety right information referred to in the preceding Paragraph contains errors or omissions after approval and public announcement, the holder of the plant variety right may apply to the central competent authority to rectify errors or remedy deficiencies. The central competent authority shall make a public announcement after approving the correction or remedied information.

Article 14

When plant variety right is licensed to a third party to exercise in accordance with Article 27, Paragraph 2 of this Act, the holder of a plant variety right or the licensee shall submit a written application with attached licensing contract or supporting documents to the central competent authority for registration.

The licensing contract or supporting documents in the preceding Paragraph shall state the license region and period.

Article 15

With regard to the creation, change, or expiration of a plant variety right pledge, the holder of a plant variety right or pledgee shall submit a written application with attached plant variety right certificate and the following documents to the central competent authority for registration:

1. the pledge creation contract for those who wish to register pledge creation;
2. supporting documents concerning the change for those who wish to register a
pledge change; and
3. supporting documents concerning financial obligation repayment or supporting
documents concerning the agreement among concerned parties to revoke the
pledge for those who wish to register the expiration of a pledge.

The pledge creation contract in Subparagraph 1 of the preceding Paragraph shall state the plant species/genus, the variety denomination, the plant variety right certificate number, and the amount of financial obligation. The pledge period shall be limited to plant variety right period.

Article 16

When a person applies for a compulsory license to exercise a plant variety right in accordance with Article 30, Paragraph 1 or Paragraph 3 of this Act, the applicant shall state the reason and attach an implementation proposal and relevant documents, when applying to the central competent authority.

When a person applies to revoke a compulsory license to exercise a plant variety right in accordance with Article 30, Paragraph 8 or Article 31 of this Act, the applicant shall state the reason for revocation, and attach supporting documents.

Article 17

The holder of a plant variety right who wishes to abandon the plant variety right in accordance with Article 36, Paragraph 1, Subparagraph 2 of this

Act shall submit a written statement of the following matters to the central competent authority:

1. the plant species/genus and the variety denomination of the plant variety right to be abandoned;
2. certificate number and issuance date;
3. the nationality, name, and residence of the abandoning person. The name, office location or place of business, and name, residence, and phone number of the legal representative or manager if the applicant is a juristic person or organization;
4. the seal or signature of the abandoning person;
5. the starting date of abandonment of the plant variety right; and
6. a letter of consent from the licensee or pledgee shall be attached if a third party will be licensed to exercise the plant variety right or create a pledge.

Article 18

Those applying to nullify or cancel a third party's plant variety right shall submit a written statement of the following matters to the central competent authority:

1. the plant species/genus and the variety denomination;
2. the certificate number and issuance date;
3. the nationality, name, and residence of the abandoning person. The name, office location or place of business, and name, residence, and phone number of the legal representative or manager if the applicant is a juristic person or organization;
4. the reason and evidence for nullification or cancellation;
5. the applicant's seal or signature and
6. the application date.

The applicant may submit the evidence specified in Subparagraph 4 of the preceding Paragraph within 30 days of the date of application for nullification or cancellation.

Article 19

The central competent authority shall serve a copy of the application form to the holder of the plant variety right or that person's agent after accepting an application in the preceding Article. The holder of the plant variety right shall make a defense within 30 days. Unless the holder of the plant variety right states a reason in advance and is granted an extension, the central competent authority will proceed with a review if no defense has been made within the given time limit.

Article 20

The central competent authority shall maintain a plant variety right

registry recording the following items:

1. plant species/genus, scientific name, and the variety denomination;
2. the name and residence of the holder of the plant variety right and the name and residence of their agent;
3. the respective shares of the owners if the plant variety right is jointly owned;
4. the application case number and date;
5. the publication case number and date;
6. the approval and publication document number and date;
7. the certificate number and issuance date;
8. variety characteristics;
9. the name and residence of the breeder;
10. the plant variety right inheritance or assignment date and the names and residences of the heirs or assignees;
11. the country of the first application for the plant variety right and the application case number and application date when a priority right is claimed in accordance with Article 17, Paragraph 1 of this Act;
12. the licensee's name or title, and residence, and the license registration date;
13. the plant variety right pledge creation, change, or expiration registration date and the pledgee's name or title, and residence;
14. the name, nationality, and residence of a holder of a compulsory license to exercise the plant variety right and the approval, nullification, or cancellation dates;
15. the reason for replacement certificate issuance and issuance date;
16. the reason for plant variety right expiration and expiration date;
17. plant variety right period and annual fee payment record; and
18. other matters connected with the plant variety right.

If any of the rights holders in the preceding Paragraph are juristic persons or organizations, its name, office location or place of business, and the name, residence, and phone number of its legal representative or manager shall be stated.

Article 21

Municipality or county/city competent authorities shall forward information on changes involving registered plant seed enterprises to the central competent authority, and shall submit compiled registration and registration change information of the previous year to the central competent authority before January 15 of each year.

Article 22

The competent authority may take three sets of samples when sending inspectors in accordance with Article 50 of this Act to inspect whether a

plant seed enterprise's plant seed markings are consist with seed content. After sealing the samples in conjunction with the enterprise, one set of samples shall be given to the enterprise for preservation, and two other sets of samples shall be taken back by the inspectors for inspection and preservation; the taken seed samples shall be purchased at cost.

The competent authority may perform the sample inspection tasks in the preceding Paragraph in conjunction with an agricultural experimental research organization or may entrust such an organization to perform such tasks.

Article 23

A plant variety right certificate issued in accordance with Article 61 of this Act shall state the following items:

1. the name or title of the holder of the plant variety;
2. the plant species/genus, scientific name, and the variety denomination;
3. the rights period;
4. the respective shares of the owners if the plant variety right is jointly owned;
5. the certificate number; and
6. the issuance date.

Article 24

If a plant variety right certificate or plant seed enterprise registration certificate is lost or destroyed, the holder of the plant variety right or plant seed enterprise may apply to the competent authority for replacement or re-issuance with explanation of the reason.

Article 25

These enforcement rules shall take effect on the date this Act is enforced.