Plant Variety Registration System and Breeder's Right in Japan

Breeder's Right

Plant Variety Protection Office, Ministry of Agriculture, Forestry and Fisheries
Contents

1. Purpose of the Variety Registration System  ................... 1
2. Conditions for Variety Registration  ........................... 2
3. Flow Chart of Procedures for Variety Registration ........... 3
4. Application .................................................................. 4
5. Publication of Application and Provisional Protection ..... 5
6. Examination .................................................................. 6
7. After Registration .......................................................... 8
8. Exceptions to Breeders’ Rights  ................................. 12
9. Measures against Infringement of Breeders’ Rights ....... 14
10. Registration Fee and Procedures for Requesting
    Certificates, etc. .......................................................... 15
11. Registration of Breeders’ Rights, etc.  ......................... 16
12. Inquiries ...................................................................... 17
1. Purpose of the Variety Registration System

Plant varieties are the foundation of production in agriculture, forestry and fisheries, and breeding of varieties with excellent characteristics in productivity, quality and disease resistance, etc., constitutes an important pillar supporting development of agriculture, forestry and fisheries.

Breeding of new varieties requires long-term effort and substantial financial cost, in addition to specialized knowledge and technical skills. However, breeding of new varieties is not something that always produces results with any certainty, and newly-bred varieties can be easily propagated by any third persons. These constitute the need for an appropriate protection of the rights of the breeders for encouraging the breeding of new varieties.

For these reasons, the Variety Registration System based on the Plant Variety Protection and Seed Act is established to protect the right of the breeders of new varieties of plants so as to promote the breeding of new varieties.

Number of Applications for Variety Registration and Registrations

The Plant Variety Protection and Seed Act was fully amended in May 1998 in order to strengthen the protection of the rights of breeders. The amended Act conforms to the UPOV Convention (the International Convention for the Protection of New Varieties of Plants) Act of 1991 which provides international rules for the protection of new varieties of plants. Thereafter, the Act has experienced several further amendments. Major amendments include: expansion of the application of penal provisions to acts of infringement of breeder’s right done with respect to harvested material in 2003; expansion of the effect of breeder’s right to processed products designated by Cabinet Order and of the duration of protection in 2005; additions of provisions for facilitating civil judicial remedies concerning infringement, reinforcement of penalties for infringement of breeder’s rights, and additions of provisions for promoting appropriate labeling in 2007.
2. Conditions for Variety Registration

(1) Plants to be protected

All cultivated plants (spermatophytes, pteridophytes, bryophytes, and multicellular algae) and species of mushrooms designated by Cabinet Order are subject of protection. Any person who has bred a new variety (breeders or their successors in title) may file an application for variety registration.

Species of Mushrooms designated by the Cabinet Order (32 species; as of October 1, 2009)

Agaricus bisporus (J. Lange) Imbach, Agaricus blazei Murr, Agrocybe cylindracea (DC.:Fr.) Maire, Auricularia auricula (Hook.) Underw., Auricularia polytricha (Mont.) Sacc., Dictyophora indusiata (Vent.:Per.), Flammulina velutipes (Curt.:Fr.) Sing., Ganoderma lucidum (Leysa:Fr.) Karst., Grifola frondosa (Dicks.:Fr.) S. F. Gray, Hericium erinaceum (Bull.:Fr.) Pers., Hypholoma marmoreus (Peck) Bigelow, Hypholoma ultnarius (Bull.:Fr.) Redhead, Lentimula edodes (Berk.) Pegler, Lepista nuda (Bull.:Fr.) Cooke, Lepista sordida (Schum.:Fr.) Sing., Lyophyllum decastes (Fr.:Fr.) Sing., Lyophyllum shimeji (Kawamura) Hongo, Marasmius giganteus (Pers.:Fr.) Karst., Mycena lacto对自己onoides aitchisonii (Berk.) Mass Geest., Hypholoma sublateritium (Schaeff.) Quél., Panellus serotinus (Pers.:Fr.) Kühner, Pholiota adiposa (Fr.) Kummer, Pholiota nameko (T. Ito) S. Ito et Imai, Pleurotus cystidiosus subsp. abalonus (Y.H. Han, K.M. Chen et S. Cheng) O. Hilber, Pleurotus cornucopioides (Paulet) Rolland. var. citrinopileatus (Sing.) Ohira, Pleurotus cystidiosus O.K. Miller, Pleurotus eryngii (DC.:Fr.) Quél., Pleurotus ostreatus (Jacq.:Fr.) Kummer, Pleurotus pulmonarius (Fr.) Quél., Polyphor tuberaster (Pers.:Fr.) Fr., Sparassis crispa (Wulf.) Fr., Tricholoma giganteum Masssee

(2) Conditions for variety registration

For variety registration, following “conditions for variety registration,” which are prescribed in the Plant Variety Protection and Seed Act must be met.

<table>
<thead>
<tr>
<th>Conditions regarding characteristics</th>
<th>Conditions</th>
<th>Contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distinctness</td>
<td>The variety must be clearly distinguishable in terms of important characteristics (shape, color, disease-resistance, etc.) from any other existing varieties.</td>
<td></td>
</tr>
<tr>
<td>Uniformity</td>
<td>All of the plants of the variety at the same propagation stage must be sufficiently similar in all of their important characteristics. (Seeds of the variety produce sufficiently similar plants.)</td>
<td></td>
</tr>
<tr>
<td>Stability</td>
<td>All of the important characteristics of the variety must remain unchanged after repeated propagation. (Sufficiently similar plants can be produced even after repeated propagation.)</td>
<td></td>
</tr>
<tr>
<td>Novelty</td>
<td>The propagating or harvested material of the variety must not have been transferred, in Japan earlier than one year before the date of application, or in a foreign country earlier than four years before the date of application (six years, in the case of perennial plants).</td>
<td></td>
</tr>
<tr>
<td>Suitability of denomination</td>
<td>The denomination of the variety must not be one which may cause confusion with denomination of existing varieties or registered trademark with respect to propagating material of the variety and similar goods thereof.</td>
<td></td>
</tr>
</tbody>
</table>

*Examination of the characteristics is denoted as DUS test to express the initial letters of Distinctness, Uniformity, and Stability.
3. Flow Chart of Procedures for Variety Registration

When the application for variety registration is received, documents are examined for their formality, and if no problem is found, the application is published, and then, examinations are conducted on whether the criteria for variety registration are satisfied. Applied variety which has been found, as a result of examination, not to fall under the grounds for rejection is registered through the entry in the Register of Plant Varieties, by which a breeder’s right with respect to the variety takes effect.
## 4. Application

### (1) Application

An application for variety registration should be filed by submitting an “Application Form for Variety Registration” addressed to the Minister of Agriculture, Forestry and Fisheries (Contact point is the Registration Team of PVP Office, New Business and Intellectual Property Division). The application form should be accompanied by “Variety Description,” stating the characteristics, etc. of the applied variety and “photographs of the plant”. In addition to them, other material and documents may be required under certain conditions, such as “seeds or spawn” and “certification documents”.

The application fee (47,200 yen) should be paid by attaching revenue stamps to the application form.

### (2) Documents, etc., required for application

<table>
<thead>
<tr>
<th>Applicants</th>
<th>In the case of a Japanese breeder</th>
<th>In the case of a foreign breeder</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Breeder</td>
<td>Breeder</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Successor in title</td>
</tr>
<tr>
<td>Required documents, etc.</td>
<td>Minister</td>
<td>Minister</td>
</tr>
<tr>
<td>(1) Application Form, Variety Description</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>(2) Photographs</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>(3) Seeds or spawn</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>(4) Document certifying the succession in title (certification of transfer, etc.)</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>(5) Document certifying nationality, etc.</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>(6) Document certifying the first application in member of UPOV (when claiming the right of priority)</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>(7) Power of Attorney</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

**Notes:**

1. “Seeds” in (3) above relates only to varieties propagated by seeds, and “spawn” relates only to mushrooms.
2. In case of employee-bred varieties, the document certifying the succession in title, referred to in (4) may be a copy of service regulations, etc. and employment certificate, etc.
3. Documents referred to in (4) and (7), where sealed, should be accompanied by seal registration certificate.
4. Any of the documents listed in (1) - (7), where prepared in a language other than Japanese, should be accompanied by Japanese written translation thereof.
5. Publication of Application and Provisional Protection

(1) Publication of applications

This is a system to publicly notify the fact that a variety is the subject of an application for variety registration in order for any person who may exploit the applied variety not to inadvertently incur a loss.

Furthermore, publication of the applied varieties allows for submission of information from general public, which enables more proper conduct of examination of the application. Information on published applications for variety registration is made available through the website of Plant Variety Protection of Ministry of Agriculture, Forestry, and Fisheries (http://www.hinsyu.maff.go.jp).

<table>
<thead>
<tr>
<th>Timing</th>
<th>Without delay, after the application has been received (if correction has been ordered, after the correction has been made appropriately)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Method</td>
<td>Notification through official gazettes (printed and web version)</td>
</tr>
<tr>
<td></td>
<td>- The date of publication of the application</td>
</tr>
<tr>
<td></td>
<td>- The genus or species of agricultural, forest or aquatic plant to which the applied variety belongs</td>
</tr>
<tr>
<td>Items to be Published</td>
<td>- The denomination of the applied variety</td>
</tr>
<tr>
<td></td>
<td>- The name of the applicant</td>
</tr>
<tr>
<td></td>
<td>- The domicile or residence of the applicant</td>
</tr>
<tr>
<td></td>
<td>- The application number and filing date</td>
</tr>
</tbody>
</table>

The web page of variety registration in Ministry of Agriculture, Forestry, and Fisheries (http://www.hinsyu.maff.go.jp)

(2) Provisional protection

In general, the examination of a variety takes several years from application to variety registration, and during this period, the applicant enjoys a certain extent of protection over his/her applied variety (provisional protection).

<table>
<thead>
<tr>
<th>Period of provisional protection</th>
<th>The period between the of publication of application and variety registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contents of provisional protection</td>
<td>The applicant may, after variety registration, claim against a person who has produced or transferred propagating material, etc. of his/her applied variety during the period of examination, compensation in an amount which he/she would be entitled to receive for its exploitation after variety registration. However, such a claim for compensation is available only when the applicant has given warning by presenting a written statement prior to variety registration, or where the person has exploited the variety with knowledge that it was an applied variety.</td>
</tr>
</tbody>
</table>
6. Examination

(1) Examination

After publication of application, following examinations are conducted regarding whether the applied variety satisfies the conditions for variety registration.

**Flow chart of examination**

- Characteristics of the applied variety (DUS testing)
  - Growing test
  - On-site inspections
  - Documentary examination
- Suitability of Denomination
- Novelty

Decisions on distinctness, uniformity, stability, denomination, and novelty

Variety registration

Rejection

(2) Examination of characteristics (DUS testing)
(Article 15, Paragraph 2 of the Plant Variety Protection and Seed Act)

“Examination of characteristics (DUS testing)” refers to the examination on whether the characteristics of the applied variety satisfy the conditions for registration (distinctness, uniformity and stability).

DUS testing for the applied variety is basically conducted in the form of growing test. However, where certain conditions are satisfied, such an examination may be conducted through on-site inspections and documentary examination (including through examination cooperation with the authorities of other members of UPOV).

- **Growing Test**
  Growing test is to examine the characteristics of a variety, by comparing the growth of the variety, submitted by the applicant, with the reference varieties at the National Center for Seeds and Seedlings (NCSS).

- **On-site Inspection**
  On-site inspection is to examine, by the examiner or the inspector commissioned by the Minister of Agriculture, Forestry and Fisheries, the characteristics of the applied variety and reference varieties cultivated by applicants, etc. on the site of the applicants under the instruction of the examiner.

- **Documentary Examination**
  Growing test and on-site inspection may not be conducted, where examination of characteristics is possible through documents such as examination reports produced in a member of UPOV based on examination cooperation, or detailed investigation reports made by the applicant.

*Holders of breeder’s rights may be asked for their cooperation where the examination authority needs the registered variety for the purpose of selecting reference varieties.*
(3) Examination of Variety Denomination
(Article 4, Paragraph 1 of the Plant Variety Protection and Seed Act)

“Examination of denomination” refers to the examination on whether the denomination of the applied variety falls under the “variety denomination which may not be registered.”

Examination of denomination is conducted twice: immediately after application and just before registration. Where the denomination has been found, as a result of the examination, to be appropriate, the application is published. However, where the variety denomination falls under any of the following items, the variety may not be registered and an order to change the denomination is issued. If the applicant does not change the denomination within the designated period of time, the application will be rejected.

Since the denomination of the applied variety constitutes an important factor for a third party to identify whether the variety is the subject of the provisional protection or not, the applicant may not change the denomination unless ordered to do so.

**Variety denomination which may not be registered**
1) Where there is more than one denomination for the variety
2) Where the denomination is identical or similar to a registered trademark pertaining to propagating material of the variety or a registered trademark pertaining to goods similar to the propagating material
3) Where the denomination is identical or similar to a registered trademark pertaining to services relating to the propagating material of the variety or goods similar to the propagating material or similar goods
4) Where the denomination is likely to cause misidentification of the variety or confusion in respect to its identification

---

(4) Examination of novelty (Article 4, Paragraph 2, and its Proviso of the Plant Variety Protection and Seed Act)

For novelty, examination is conducted on:
1) whether or not propagating material or harvested material of the variety have been transferred in the course of business, in Japan earlier than one year before the date of application, or in any foreign state earlier than four years (six years, in the case of perennial plants) before the date of application.
2) whether or not the transfer was made for the purpose of experiment or research, or against the will of the breeder.

(5) Rejection of application

In the following cases, the applicant is notified of the reason for rejection and is given an opportunity to submit a written statement of his/her arguments: Where grounds for rejection is not found to be eliminated even with the written argument, then the application is rejected.

1) where the variety does not meet the conditions for registration
2) where the applicant fails, without justifiable grounds, to comply with the order to submit materials (including seeds and seedlings for growing tests, etc.) or the order to change the denomination
3) where the applicant refuses, without justifiable grounds, on-site inspections
7. After Registration

Varieties which have been found, as a result of examination, not to fall under grounds for rejection are registered. When varieties are registered, denomination and characteristics of the varieties, the name and domicile of the holder of the breeder’s right, the duration of the breeder’s right, etc., are registered in the Registry of Plant Varieties and are publicly notified accordingly through the Official Gazette. Information on registered varieties can be obtained through the web page of variety registration of the Ministry of Agriculture, Forestry, and Fisheries.

(1) Breeders’ rights

Breeders’ rights become effective upon variety registration. The holder of the breeders’ rights has an exclusive right to exploit (Note 1), in the course of business, propagating material, harvested material and processed products (only those products specified by the Cabinet Order) of the registered variety and varieties which, by the expressions of characteristics, are not clearly distinguishable from the registered variety (hereinafter collectively referred to as the “registered variety, etc.”).

Therefore, any other person than the holder of the breeders’ rights may not exploit, in the course of business, the registered variety, etc., without authorization of the holder of the breeders’ rights.

The holder of the breeders’ rights for a registered variety also has an exclusive right to exploit (1) varieties which are bred by changing parts of the expressions of the characteristics of the registered variety while retaining the expressions of its essential (essentially derived varieties: EDV (Note 2)) and (2) varieties whose production requires repeated use of the registered variety (hybrid varieties), the scope of which shall be the same as the right which the breeders of those varieties would, if obtained a variety registration, be granted.

(2) Duration of breeders’ rights

The duration of breeder’s rights is 25 or 30 years from the date of variety registration. However, the registration may be rescinded in following cases:

1) where registration fee is not paid within the prescribed time period,
2) where it has turned out that the variety was registered without meeting the conditions for variety registration,
3) where it has turned out that, after variety registration, the registered variety no longer satisfies the conditions of uniformity and stability

| Perennial plants (woody plants such as fruit trees, forest trees and ornamental trees, etc.) | 30 years |
| Other plants | 25 years |
Note 1: “Exploitation of the variety”:

1) Acts in respect of propagating material
   1) Production
   2) Conditioning: removal of impurities, seed cleaning, drying, chemical treatment and coating, etc.
   3) Offering for transfer: distribution of catalogues to prospective buyers to receive orders, displaying, in the
      front of store, of denomination of varieties and their price, etc.
   4) Transferring: sales of seeds or distribution of seeds to visitors of a botanical garden, etc.
   5) Exporting: shipping abroad of seeds to foreign countries
   6) Importing: bringing in of seeds from foreign countries to Japan
   7) Stocking: stocking for the purpose of acts listed in 1) through 6) above

2) Acts in respect of harvested material
   Where the holder of the breeders’ rights has not had reasonable opportunity to exercise his/her rights against acts
   in respect of propagating material, he/she may exercise his/her rights against acts described in (1) above (except
   for “conditioning”), offering for lease and leasing, of harvested material.

3) Acts in respect of processed products (Note 3)
   Where the holder of breeders’ rights has not had reasonable opportunity to exercise his/her rights against acts in
   respect of propagating material and harvested material, he/she may exercise his/her rights against acts described
   in (2) above in respect of processed products made directly from harvested materials which are specified by
   Cabinet Order.

Processed products specified by Cabinet Order (as of July 1, 2012)
   1) Red bean (azuki bean): boiled beans, including those sweetened with sugar, and bean-jam
   2) Rush: straw mat
   3) Rice: boiled rice
   4) Tea: processed tea made from leaves and stems

Note 2: “Essentially derived” variety:

An essentially derived variety is a variety which has been bred by changing parts the expressivity of the characteristics of the
registered variety, using breeding methods specified by Article 15 of the Ordinance for Enforcement of the Plant Variety Protection
and Seed Act (a. Selection of a mutant, b. backcrossing, c. transformation by genetic engineering, d. cell fusion (limited to
asymmetric fusion)).

Examples: Varieties whose only difference from a registered variety is shape of prickles or enhanced disease-resistance.

(All characteristics, of new variety B, other than the shape of prickles are the same as those of the initial variety A.)

Note 3: Distinction between “harvested material” and “processed products”

“Harvested material” include such products that are obtained through simply cutting, freezing, drying, or
salting harvested plants (i.e. cut vegetables, cut fruit, frozen vegetables, salted vegetables and tatami omote
(woven mat made from rush straw), etc.). On the other hand, products obtained through heating (roasting, boiling,
grilling, etc.), flavoring (smoking, etc.), grinding or squeezing harvested plants are the “processed products”. The
breeders’ rights extend to those processed products which are specified by the Cabinet Order, as explained
above.
(3) Exploitation of Registered Varieties

1) The holder of breeders’ rights has an exclusive right to exploit (production and sales of seeds, etc.) the registered variety, etc.

2) Breeders’ rights may be transferred as property rights. It may also be the subject of a pledge.

3) The holder of breeders’ rights may also authorize any third persons to exploit the registered variety, etc.
**Non-exclusive Exploitation Right**

Persons granted a non-exclusive exploitation right may exploit the registered variety, etc., to the extent laid down in the contract.

**Exclusive Exploitation Right**

Persons granted an exclusive exploitation right may exclusively exploit the registered variety, etc., to the extent laid down in the contract. Even the holder of the breeders’ rights may not exploit the registered variety to the extent where the holder of the exclusive exploitation right is authorized to exclusively exploit the variety.

Grant of exclusive exploitation right shall take no effect unless it is registered in the Register of Plant Varieties.

---

**<Authorization in the case of exploitation of essentially derived variety, etc.>**

In cases where both an essentially derived variety or a variety whose production requires the repeated use of the initial variety (“essentially derived variety, etc.”), and its initial variety are registered, authorization of both the holder of breeders’ right of the initial variety and the holder of breeders’ right of the essentially derived variety, etc., for the exploitation of the essentially derived variety, etc.
8. Exceptions to Breeders’ Rights

Breeders’ rights do not extend to the following acts:

(1) Exploitation of varieties for the purpose of breeding new varieties and for other experimental and research purposes

Examples include:
1) Multiplication of seeds of a registered variety, for the uses for breeding new varieties.
2) Multiplication of seeds of a registered variety and their uses for the purpose of verifying the maintenance of the expressions of the characteristics of the variety.

(2) Use of Farm-saved Seeds, as Prescribed in the Act

This exception is applied to cases where farmers (either an individual or a corporation) further use, as propagating material on their own holdings, the harvested material obtained through the use of propagating material of a registered variety, which have been transferred by the holder of breeders’ right.

However, the exception is not applied if otherwise agreed upon by contract, or in the case of vegetatively-propagated plants listed in the table below, and authorization of the holder of the breeders’ right is required for the use of farm-saved seeds.

Vegetatively-propagated plants designated by Ordinance of the Ministry, to which the exception does not apply:

| Vegetables | Amaranth (Amaranthus L.), Angelica L. (excluding Angelica acutiloba Kitagawa), Armoracia Fabr., Sagittaria L. (4 genus and species) |
| Fruit trees | Carica L., Malpighia L., Schizandra Michx. (3 genus and species) |
| Mushrooms | Cauliflower mushrooms (Sparassis crispa Wulf. & Fr.), Lentinus elodes (Berk.) Sing., Lysophyllium shimeji (Kawamura) Hongo (3 genus and species) |

*As of July 1, 2012
(3) Exhaustion of the breeders’ rights

Where propagating material, harvested material or processed products of a registered variety have been transferred by the holder of breeders’ rights, the effect of the breeders’ rights do not extend to the exploitation of the transferred propagating material, harvested material or processed products, and authorization of the holder of breeders rights is not required for their further transfer, etc. However, this does not apply to the following acts, and authorization of the holder of breeders’ rights is required for those acts:

1) Further production of propagating material of the registered variety, using the transferred propagating material, etc.

2) Exporting of the transferred propagating material or harvested material for a purpose other than final consumption to a state which does not provide protection for varieties of the plant genera or species to which the registered variety belongs.
9. Measures against Infringement of Breeders’ Rights

(1) Civil actions and criminal penalties

<table>
<thead>
<tr>
<th>Civil remedy</th>
<th>Claims for injunction, damages, or measures for recovery of business reputation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal punishment</td>
<td>Imprisonment with labor for not more than 10 years or a fine of not more than 10,000,000 (ten million) yen</td>
</tr>
<tr>
<td>(in the case of an intentional infringement)</td>
<td>(a fine of not more than 300,000,000 (three hundred million) yen, in the case of a corporate body, etc.)</td>
</tr>
</tbody>
</table>

(2) Plant variety protection advisers (PVP G-men)

Plant Variety Protection Advisers (PVP G-men) of the National Center for Seeds and Seedlings (NCSS) are providing assistance, on a neutral and impartial ground, for proving the fact of infringement of breeders’ rights with the aim of facilitating protection and utilization of breeders’ rights.

As of 2012, there are 20 PVP G-men at seven stations, from Hokkaido to Okinawa, of NCSS. Activities of PVP G-men are as follows:

1) Giving advice on protection and utilization of breeders’ rights
2) Conducting variety similarity test for helping determination the fact of infringement of breeders rights
3) Providing information on protection and utilization of breeders’ rights
4) Producing a record of the state of infringement of breeders’ rights
5) Safekeeping seeds, etc., as evidence
6) Giving advice on utilization of new variety of plants
7) Searching of local traditional varieties, etc.
8) Providing information on providers of seeds and their characteristics, etc.

(3) Example of measures taken against infringement of breeders’ rights:

The case of the “Beni-shuho” cherry

A gourmet magazine, released in May 2005 carried an article, that preparations were being made for exporting “Beni-shuho” cherries, from Australia to Japan, for which Yamagata Prefecture is granted a breeders’ right. As a result of the investigation done by Yamagata Prefecture with the cooperation of PVP G-men, it became clear that “Beni-shuho” grafts had been taken out of Japan without its authorization. In November 2005, Yamagata Prefecture lodged a criminal complaint against an Australian who had exported the grafts, and filed an application for suspension of imports with the Customs.

Thereafter, because the Australian expressed his deep repentance and agreed with Yamagata Prefecture to voluntarily refrain from exporting “Beni-shuho” for a certain period of time even after the expiration of the duration of breeders’ rights, Yamagata Prefecture withdrew the criminal complaint and entered into a settlement with him.
10. Registration Fee and Procedures for Requesting Certificates, etc.

(1) Registration fee

The holders of breeders' rights have to pay a registration fee in order to maintain their rights. Registration fee should be paid by attaching a revenue stamp to the payment form.

<table>
<thead>
<tr>
<th>Years after registration (years)</th>
<th>Annual registration fee (yen/year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-3</td>
<td>6,000</td>
</tr>
<tr>
<td>4-6</td>
<td>9,000</td>
</tr>
<tr>
<td>7-9</td>
<td>18,000</td>
</tr>
<tr>
<td>10-30</td>
<td>36,000</td>
</tr>
</tbody>
</table>

Yearly deadlines for payment of registration fee

<table>
<thead>
<tr>
<th>Years after registration</th>
<th>Time limit of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>For the first year</td>
</tr>
<tr>
<td></td>
<td>Within 30 days from the date of variety registration</td>
</tr>
<tr>
<td></td>
<td>For the second year and subsequent years</td>
</tr>
<tr>
<td></td>
<td>Earlier than the day of each year corresponding to the date of registration</td>
</tr>
</tbody>
</table>

The breeders' rights are be rescinded in cases where the registration fee is not paid by the deadline. However, in the case of the registration fee for the second year and subsequent years, registration may be maintained by making payment of a surcharge, in addition to the registration fee, of the same amount as the registration fee. The payment of registration fee may be made either annually or in a lump sum covering several years.

(2) Procedures for requesting certificates, etc.

In filing a request for certificates, issue of a transcript or extract of the Registry of Plant Varieties, or inspection, etc. of documents, payment of fees, as listed in the table below, is required:

<table>
<thead>
<tr>
<th>Requested items and fees</th>
<th>Amount of fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certificates relating to an application for variety registration and a registered variety</td>
<td>1,500 yen</td>
</tr>
<tr>
<td>Issue of a transcript or extract of the Registry of Plant Varieties</td>
<td>350 yen</td>
</tr>
<tr>
<td>Inspection or copying of the Registry of Plant Varieties</td>
<td>220 yen</td>
</tr>
<tr>
<td>Inspection or copying of an application and other documents relating to variety registration</td>
<td>1,100 yen</td>
</tr>
</tbody>
</table>
## 11. Registration of Breeders' Rights, etc.

### (1) Registration matters relating to breeders’ rights, and registration and license tax

Transfer (other than by inheritance or other general succession), extinction by waiver or restrictions on disposition (e.g. attachment and provisional attachment), of breeders' rights do not take effect unless they are registered in the Registry of Plant Varieties. The same applies also to the grant/establishment, and transfer (other than by inheritance or other general succession) of exclusive exploitation rights or pledges on breeders' rights, etc.

Payment of registration license tax listed in the table below is required in order to complete the registration.

Transfer of breeders’ rights, etc. by inheritance or other general succession should be notified to the Minister of Agriculture, Forestry and Fisheries without delay (the notification may be done by filing an application for the registration of transfer of breeders’ right, etc.).

<table>
<thead>
<tr>
<th>Registration matters</th>
<th>Tax base</th>
<th>Registration license tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Registration of transfer of a breeders' rights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) Registration of transfer by inheritance or by merger of legal persons</td>
<td>Number of breeders' rights</td>
<td>3,000 yen</td>
</tr>
<tr>
<td>2) Registration of transfer by other causes</td>
<td>Number of breeders' rights</td>
<td>9,000 yen</td>
</tr>
<tr>
<td>2. Registration of grant or preservation of an exclusive exploitation right or a non-exclusive exploitation right</td>
<td>Number of exclusive exploitation rights or non-exclusive exploitation rights</td>
<td>9,000 yen</td>
</tr>
<tr>
<td>3. Registration of establishment of a pledge on a breeders' right, an exclusive exploitation right or a non-exclusive exploitation right, or registration of restrictions on disposition of a breeders' right, an exclusive exploitation right, a non-exclusive exploitation right or a pledge</td>
<td>Amount of claim</td>
<td>0.4%</td>
</tr>
<tr>
<td>4. Registration of transfer of an exclusive exploitation right or a non-exclusive exploitation right, or registration of transfer of a pledge on an exclusive exploitation right, a non-exclusive exploitation right or a breeders' right</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) Registration of transfer by inheritance or merger of legal persons</td>
<td>Number of breeders' rights, exclusive exploitation rights or non-exclusive exploitation rights</td>
<td>1,500 yen</td>
</tr>
<tr>
<td>2) Registration of transfer by other causes</td>
<td>Number of breeders' rights, etc.</td>
<td>3,000 yen</td>
</tr>
<tr>
<td>5. Registration of entrustment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) Registration of entrustment of a pledge</td>
<td>Amount of claim</td>
<td>0.2%</td>
</tr>
<tr>
<td>2) Registration of entrustment of rights other than pledge</td>
<td>Number of breeders' rights, etc.</td>
<td>3,000 yen</td>
</tr>
<tr>
<td>6. Supplementary note registration, provisional registration, registration of restoration of a deleted registration, registration of a correction or a modification of registered matters (excluding those which fall under 1 through 5 above)</td>
<td>Number of breeders' rights, etc.</td>
<td>1,000 yen</td>
</tr>
<tr>
<td>7. Deletion of registration</td>
<td>Number of breeders' rights, etc.</td>
<td>1,000 yen</td>
</tr>
</tbody>
</table>
12. Inquiries

For more detailed information, please visit “The homepage of Plant Variety Protection (http://www.hinsyu.maff.go.jp)” of the Ministry of Agriculture, Forestry and Fisheries (MAFF).

Call Centers
When connection is made, our staff may ask for your name and other information. Immediate answers may not be available to inquiries requiring technical expertise, when the official in charge is out of office, or for other reasons.

<table>
<thead>
<tr>
<th>Type of inquiry</th>
<th>Department</th>
<th>Ext. Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>General consultation about application for variety registration</td>
<td>Examination Office (Registration Team)</td>
<td>4301</td>
</tr>
<tr>
<td>Payment of registration fee, transfer of rights, inspection of application documents, etc.</td>
<td>Examination Office (Registration Team)</td>
<td>4301</td>
</tr>
<tr>
<td>Test guidelines and examinations</td>
<td>Examination Office (Examination Management Team)</td>
<td>4294</td>
</tr>
<tr>
<td>Infringement of breeders’ rights, plant variety protection system, and international affairs</td>
<td>International Project Team</td>
<td>4289</td>
</tr>
<tr>
<td>Other types of consultation</td>
<td>General Affairs Team</td>
<td>4281</td>
</tr>
<tr>
<td>Interpretation of the Act and its Ordinances</td>
<td>Legal Advisor’s desk</td>
<td>4286</td>
</tr>
</tbody>
</table>

New Business and Intellectual Property Division, Food Industry Affairs Bureau
Ministry of Agriculture, Forestry and Fisheries
Kasumigaseki 1-2-1, Chiyoda-ku, Tokyo, 100-8950, Japan
Phone: +81-3-3502-8111
URL: http://www.hinsyu.maff.go.jp

In matters concerning the infringement of breeder’s rights (consultation and inquiries about PVP G-men etc.), please check the website of the National Center for Seeds and Seedlings (http://www.ncss.go.jp).

Plant Variety Protection Division
Incorporated Administrative Agency, National Center for Seeds and Seedlings (NCSS)
Fujimoto 2-2, Tsukuba, Ibaraki, 305-0852, Japan
Phone: +81-29-838-6589
URL: http://www.ncss.go.jp