

FINLAND

**DECREE ON BREEDERS' RIGHTS\***

No. 907 of October 9, 1992

**Section 1**

**Application for Registration**

Applications for registration shall be signed by the applicant or a representative of the applicant and they shall contain the following information:

- (1) The name, domicile and address of the applicant and, if represented by an agent, the name, domicile and address of the agent;
- (2) The origin of the variety and the results of experiments made therewith;
- (3) The proposed provisional denomination for the variety if a definitive denomination is not proposed at this stage;
- (4) Whether an application for registration has been filed in another State and whether a proposal for a variety denomination was then made or a denomination accepted, and the findings of the authorities of that State in examining the registrability of the variety;
- (5) Whether priority is sought under Section 10 hereafter, and where and when previous applications have been filed;
- (6) The data under Section 10 of the Law on Breeders' Rights (789/92).

The following documents shall be attached to the application:

- (1) A power of attorney if the applicant is represented by an agent;
  - (2) If the proposed variety denomination is liable to be confused with a trademark designating plant variety material or similar goods to which the applicant has an exclusive right, a certificate from the National Board of Patents and Registration of Trademarks certifying that the said trademark has been removed from the trademark register or, if no such trademark has been registered, a declaration by the applicant stating that he has renounced or a notification that he is ready to renounce his right to such trademark.
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The application and the annexes shall be filed in the Finnish, Swedish, Norwegian, Danish or English languages.

## **Section 2**

### **List of Applications**

The Plant Variety Board shall maintain a list of all the applications submitted to it for the registration of plant varieties.

On the application, the Plant Variety Board shall enter the filing number and the date on which the application has been submitted to the Board.

The list of applications shall state:

- (1) The date of receipt and the filing number of the application;
- (2) The genus or species of the plant variety;
- (3) The proposed provisional or definitive variety denomination;
- (4) The name, domicile and address of the applicant;
- (5) If the applicant is represented by an agent, the name, domicile and address of the agent;
- (6) The name and address of the breeder;
- (7) If priority has been requested and an application for the same variety has been filed in another State, the number of such application;
- (8) Necessary data on the plant material supplied to the Board or to an authority or an institution designated by the Board, and on the propagation of the plant material;
- (9) Data on the documents submitted to the Board and on the fees paid;
- (10) Any decisions taken in the matter;
- (11) Any deferments in the consideration of the matter caused by a previous application; such data shall also be entered in the list with respect to the previous application;
- (12) Any transfer of an application under Section 16 of the Law on Breeders' Rights.

### **Section 3**

#### **Publication by the Board**

The Plant Variety Board shall issue a publication with information on the registration of varieties as prescribed in the Law on Breeders' Rights and in a decree to be issued by virtue of that Law.

### **Section 4**

#### **Publication of the Application for Registration**

An application for registration which complies with the requirements shall be published by the Board. The publication shall state:

- (1) The filing number of the application;
- (2) The name, domicile and address of the applicant;
- (3) The name and address of the breeder;
- (4) The genus or species of the variety;
- (5) The proposed provisional or definitive denomination;
- (6) The date on which the application was submitted to the Plant Variety Board;
- (7) Whether priority has been requested and the State in which the previous application regarding the variety has been filed, and the date and filing number thereof;
- (8) The date on which any claim in respect of the application must be filed at the latest.

### **Section 5**

#### **Publication of Proposal to Change Variety Denomination**

If a proposal to change a variety denomination is submitted after the publication under Section 4 of an application for registration, the proposal shall be published by the Plant Variety Board.

The publication shall state:

- (1) The filing number of the application;
- (2) The name, domicile and address of the applicant;

- (3) The genus or species of the variety;
- (4) Both the proposed new denomination and the previous denomination;
- (5) The date on which the application was furnished to the Plant Variety Board;
- (6) The date on which any claim in respect of the application shall be filed at the latest.

## **Section 6**

### **Filing a Claim**

Any claim in respect of an application for registration or a variety denomination shall be substantiated.

If the claim is filed by an agent, the agent shall present a power of attorney issued by the claimant.

## **Section 7**

### **Consideration of Application by the Board**

In considering an application for registration, the Board shall take into account the facts presented in the application as well as other relevant facts.

The Plant Variety Board may request expert advice on issues relative to the consideration of an application.

Any person filing an application for registration in Finland for a variety which has been the object of an earlier application in another State, shall advise to the Board of the response of the authority in such other State.

## **Section 8**

### **Inclusion of a Variety in the Plant Variety Register**

The plant variety register shall state:

- (1) The filing number of the application and the registration number of the variety;
- (2) The name, domicile and address of the owner of the variety and, if the applicant is represented by an agent, the name, domicile and address of the agent;
- (3) The name and address of the breeder;
- (4) The genus or species of the variety;

- (5) The registered variety denomination;
- (6) The date on which
  - (a) the application was furnished to the Plant Variety Board,
  - (b) the proposed variety denomination was furnished to the Plant Variety Board,
  - (c) the application was published,
  - (d) the variety was registered;
- (7) Whether the variety has been granted priority under Section 12 of the Law on Breeders' Rights, the State in which the previous application regarding the variety has been filed and the date of such filing.

## **Section 9**

### **Notations in the Plant Variety Register on the Transfer of Breeders' Rights, Licensing and Other Matters**

In addition to notations in the register under Section 25 of the Law on Breeders' Rights, the payment of the annual fee shall be entered in the register.

The notations shall state the name, domicile and address of the holders of breeders' rights as well as the dates of any measures under paragraph 1 above. At the request of the person entitled to licence, any restrictions therein with regard to the owner of the variety shall also be entered in the register.

At the request of an appellant, any appeal against the final decision of the register authority with regard to breeders' rights shall be entered in the register. Any court ruling in the matter shall likewise be entered in the register.

Similarly, any distraint or confiscation relative to breeders' rights and any notification of change of agent shall be entered in the register upon request.

If it is not possible immediately to solve a question regarding an entry in the register, a notation shall be entered that a request to that effect has been made.

## **Section 10**

### **Notation of Priority**

The priority referred to in Section 12 of the Law on Breeders' Rights may be granted on condition that

- (1) the priority has been expressly claimed in the application,
- (2) copies of the previous application and any documents attached thereto are submitted to the Plant Variety Board within three months after the application has been filed--the copies shall be certified by the authority which received the first application in respect of the variety concerned--and
- (3) any other documents and plant material required in the consideration of the question of priority have been submitted to the Plant Variety Board within four years after the expiry of the period of priority. If the previous application has been rejected or withdrawn, the Board may decide on a different period within which the latter documents and plant material shall be submitted.

### **Section 11**

#### **Removing a Variety from the Plant Variety Register**

If the owner of a variety renounces his right, if the annual fee has not been paid within the prescribed time, if the breeders' rights are declared null and void by a court of law or if the Plant Variety Board declares the breeders' rights forfeit, the Plant Variety Board shall remove the variety from the register once the decision by the court or the Board has taken effect.

### **Section 12**

#### **Notification to the National Board of Patents and Registration of Trademarks**

If the application is accompanied by a declaration or notification referred to in Section 1, second paragraph, item 2, the Plant Variety Board shall, once the decision on the registration of the variety has taken effect, notify the National Board of Patents and Registration of Trademarks of the fact and of the variety denomination.

### **Section 13**

#### **Notification to License Holder**

If the owner of a variety renounces his right and a license to that variety has been entered in the register, the Board shall notify the license holder so as to ensure a reasonable period within which the license holder may defend his rights, before the Plant Variety Board removes the variety from the register.

## **Section 14**

### **Publication of the Registration of Breeders' Rights or Rejection of an Application**

The publication of the decision to register breeders' rights or to reject an application shall state the date of registration of the variety, the registration number, the filing number of the application and the date on which the application was furnished to the Plant Variety Board.

## **Section 15**

### **Other Matters to be Published**

The Plant Variety Board shall publish any effective decision whereby a variety has been removed from the register, a registered variety denomination has been changed or the breeders' rights have been transferred to another.

## **Section 16**

### **Entry Into Force**

This Decree shall enter into force on October 15, 1992.

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Entry into force: October 15, 1992

Finnish title: Asetus Kasvinjalostajanoikeudesta

Swedish Title: Förordning om växtförädlarrätt

English translation supplied by the Finnish Ministry of Agriculture and Forestry