

**REGISTRATION OF VARIETIES OF  
HORTICULTURAL PLANTS**  
**(Regulation of the Minister of Agriculture Number  
38/Permentan/OT.140/7/2011, dated July 14, 2011)**

BY GRACE OF GOD THE ALMIGHTY  
THE MINISTER OF AGRICULTURE OF  
THE REPUBLIC OF INDONESIA,

cle 58 paragraph (3), Article 59 paragraph (3) and  
Article 60 paragraph (3) of Law Number 13 Year  
2010 on Horticulture, it is necessary to regulate  
the registration of varieties of horticultural plants;

Considering:

- a. that in line with the advancement of technology and the growth of the public need, the releasing system of plant varieties has been less capable of boosting the growth of horticulture seedling business;
- b. that in order to boost the growth of the business, it is necessary to simplify the release by means of registration of plant varieties;
- c. that having regards to the above mentioned matters and in order to follow up the mandate of Arti-

In view of:

1. Law Number 29 Year 2000 on Protection of Plant Varieties (Statute Book of the Republic of Indonesia Year 2000 Number 241, Supplement to Statute Book of the Republic of Indonesia Number 4043);
2. Law Number 13 Year 2010 on Horticulture (Statute Book of the Republic of Indonesia Year 2010 Number 132, Supplement to Statute Book of the Republic of Indonesia Number 5170);

3. Government Regulation Number 21 Year 2005 on Biological Security for Genetically Engineered Products (Statute Book of the Republic of Indonesia Year 2005 Number 44, Supplement to Statute Book of the Republic of Indonesia Number 4498);
4. Presidential Decree Number 84/P Year 2009 on the Establishment of the Second United Indonesia Cabinet;
5. Presidential Regulation Number 47 Year 2009 on the Establishment and Organization of State Ministries;
6. Presidential Regulation Number 24 Year 2010 on Status, Task and Function of State Ministries as well as First-Echelon Organizational Structure, Task and Function of State Ministries;
7. Decree of the Minister of Agriculture Number 511/Kpts/PD.310/9/2006 on Kinds of Commodities Fostered by the Directorate General of Plantation, Directorate General of Food Crop and Directorate General of Horticulture juncto Decree of the Minister of Agriculture Number 3599/Kpts/PD.310/10/2009;
8. Regulation of the Minister of Agriculture Number 61/Permentan/OT.140/ 10/2010 on Organization and Working Mechanism of the Ministry of Agriculture;

DECIDES :

To stipulate:

THE REGULATION OF THE MINISTER OF AGRICULTURE ON REGISTRATION OF VARIETIES OF HORTICULTURAL PLANTS

CHAPTER I  
GENERAL PROVISION

Article 1

Referred to in this regulation as:

1. Horticultural Plants shall be plants yielding fruits, vegetables, phyto-medicine substances, floriculture, including mushrooms, algae and hydro plants functioning as vegetables, phyto medicine substance and/or aesthetics.
2. Horticultural Seed hereinafter called seed shall be horticultural plant or part thereof used to multiply and/or reproduce horticultural plants.
3. Enrichment of Horticultural Plants hereinafter called enrichment shall be a series of activities to preserve the purity of kind and/or variety of the existing horticultural plants or produce kind and/or variety of better new horticultural plants.
4. Variety Registration shall be public service for collecting data varieties in the framework of supervising the distribution of seeds.
5. Verification of Variety Truth shall be a method used to prove conformance of performance/physic of varieties of horticultural plants to their descriptions.
6. Variety Release shall be statement of variety owner or proxy, submitted to communities with regards to variety already securing registration identity.
7. Variety of Horticultural Plant hereinafter called variety shall be part of a kind of horticultural plant marked by model of plant, growth, leaf, flower, seed and other characteristics which may be differentiated in the same kind.

8. Introduction shall be the inclusion of seed or parent stock material from other countries for the first time and not distributed or traded, but for the need of enrichment of plants or verification in the framework of variety registration.
9. Variety Truth shall be conformance of performance/physics of variety to the description, which may be proven through visual verification or laboratory test.
10. Accredited Testing Institution shall be an institution already applying quality management system and recognized by the institution authorized to accredit.
11. Superior Horticultural Variety hereinafter called superior variety shall be a variety declared by the owner or proxy to have advantage in the yield potential and/or other characteristics.
12. Local Variety shall be a variety already existing and cultivated from generation to generation by farmers as well as becoming property of communities.
13. Enrichment organizer shall be individual, legal entity or government institution organizing a series of to study and test or find and develop a variety.
14. Genetically engineered product shall be life organism, part thereof and/or result of their processing that have new genetic structure as a result of the application of modern bio-technology.
15. Distribution shall be an activity or a series of activities in the framework of distributing seed in the country for trading or not.
16. Registration Identity of Variety shall be written information about the fulfillment of requirements

for the registration of variety for the need of distribution, which is issued by the Directorate General of Horticulture to the request of variety owner or proxy.

17. Central for Protection of Plant Variety and Agricultural Licensing hereinafter abbreviated to PPVTPP shall be a working unit of organization within the Ministry of Agriculture, which is led by a head of center to execute tasks and functions in the field of variety protection and licensing.
18. Minister shall be the minister in charge of agricultural affairs.

#### Article 2

This regulation shall be intended to provide operational basis for the registration of varieties with a view of protecting consumers from obtaining seeds having performance/variety diversity not matching the description.

#### Article 3

The scope of this regulation shall cover enrichment, requirements and procedures for registration, variety release and supervision over registration identity.

### CHAPTER II ENRICHMENT

#### Article 4

- (1) Varieties of horticultural plants may be enriched through domestic enrichment or introduction.
- (2) The enrichment as meant in paragraph (1) shall be intended to preserve the purity of the existing

kinds and/or varieties or produce new kinds and/or varieties.

- (3) Results of the plant enrichment in the form of new varieties as meant in paragraph (2) shall be registered to the Minister if they are to be released.
- (4) The registration and distribution of the enrichment result as meant in paragraph (1) using genetically engineering technology shall meet the requirements for biological security.

Article 5

The enrichment of the horticultural plants may be done by individuals, legal entities, institutions of the government and/or regional governments.

Article 6

- (1) The introduction of seed from other country for the need of enrichment as meant in Article 4 paragraph (1) shall secure license from the variety owner.
- (2) The introduction of seed as meant in paragraph (1) shall be obliged to secure license from the minister, besides license from the variety owner.
- (3) The license as meant in paragraph (2) shall be granted in the form of a ministerial decree by the Director General of Horticulture on behalf of the Minister of Agriculture.
- (4) The introduction of seeds as meant in paragraph (1) may be done by individuals, legal entities, institutions of the government and/or regional governments.

Article 7

The introduced seeds as meant in Article 6 paragraph (1) shall meet the following requirements:

- a. plant quarantine legislation.
- b. quantity in accordance with the need.
- c. having description of variety.

CHAPTER III

REQUIREMENT AND PROCEDURE  
FOR REGISTRATION

Part One

Requirement for Variety Registration

Article 8

- (1) Variety registration shall be intended to collect data about varieties in the framework of supervising the distribution of seeds.
- (2) The collection of data about varieties as meant in paragraph (1) shall include the process of receipt, examination, and clarification of document, issuance of registration identity, entry of variety data into data base.
- (3) The registration of variety as meant in paragraph (1) shall be executed by PPVTPP.
- (4) Application for the registration of variety may be submitted by enrichment organizer or owner of prospective variety/proxy either individual, legal entity or institution of the government and/or regional government.

Article 9

The varieties resulting from the enrichment or local varieties which are registered as meant in Article 8 paragraph (1) shall meet the following requirements:

- a. having variety description suitable to the standard stipulated by the Director General of Horticulture;
- b. never registered for distribution.
- c. having certain advantages as recognized by the enrichment organizer or owner of prospective varieties/their proxy as contained in the description;
- d. name of variety in the description in letter a follows the naming regulated in legislation in the field of plant variety protection.

#### Article 10

The application for registration as meant in Article 8 paragraph (4) shall meet the following requirements:

- a. having or controlling the would-be registered variety;
- b. having result of variety advantage test;
- c. having result of variety truth test;
- d. statement of readiness to enrich seeds fulfilling the minimum quality standard or technical requirements;
- e. statement of readiness to assure the truth that the distributed variety is in accordance with the description;
- f. statement of readiness to preserve archive of the registered seeds or plants as genuine variety (authentic);
- g. statement of readiness to withdraw the distributed seed if the registration identity of the seed variety is revoked;
- h. naming the registered variety in accordance with legislation in the field of plant variety protection.

#### Part Two

#### Variety Truth Test

#### Article 11

- (1) The truth of variety shall be verified by testing institutions already accredited or appointed by the Minister.
- (2) The variety truth test as meant in Article 10 letter b may be done through visual verification or laboratory test.
- (3) The variety truth test through visual verification as meant in paragraph (2) shall be done by comparing performance of the plant to variety description.
- (4) The variety truth test through laboratory test may be done by matching tape of Deoxyribo Nucleic Acid (DNA) of the tested variety to comparator variety.
- (5) Kinds of plans which may be exempted from the variety truth test as meant in paragraph (2) shall meet the following criteria:
  - a. group of floriculture having variety extremely influenced by consumer taste;
  - b. group of vegetable and medicinal plants having extremely limited usage and consumer;
  - c. kinds having strain easy to change because of environmental influence.
- (6) The Director General of Horticulture shall stipulate further the kinds of plants which may be exempted as meant in paragraph (5).

#### Article 12

- (1) The testing institutions as meant in Article 11 paragraph (1) may be institutions belonging to the

government, regional government or private.

- (2) The testing institutions as meant in paragraph (1) shall be:
- a. institutions handling the supervision and certification of plant seed; or
  - b. universities undertaking education in the agricultural field, or
  - c. institutions within the agricultural research and development board handling horticultural research and development.
- (3) The testing institutions appointed by the Minister as meant in Article 11 paragraph (1) shall submit their readiness in writing to the Minister through the Director General of Horticulture.

#### Article 13

Business communities in the field of horticulture seedling that have secured certificate of quality management system from the authorized certification institution may test the truth of their own varieties resulting from domestic enrichment.

#### Article 14

- (1) The testing institutions as meant in Article 12 paragraph (1) shall meet the following requirements:
- a. having competent human resources in the field of plant enrichment/agronomy;
  - b. having/controlling site test and/or laboratory test facilities;
  - c. understanding and capable of testing the truth of horticulture varieties in accordance with the effective standards.

- (2) If the executor of variety truth test as meant in paragraph (1) not yet having laboratory facility, the executor may cooperate with accredited laboratory in accordance with the scope of the required test.
- (3) The Director General of Horticulture on behalf of the Minister shall regulate further guidance for the variety truth test as meant paragraph 1 letter c.

#### Part Three

#### Registration Procedure

#### Article 15

- (1) Individuals, legal entities, institutions of the government and/or regional government as meant in Article 8 paragraph (4) shall submit application for registration in writing to the Minister through the Head of PPVTPP by affixing sufficient duty stamp in accordance with legislation in force, by using Form Model-1 as contained in the attachment as an integral part of this regulation.
- (2) The application form as meant in paragraph (1) shall be accompanied by:
- a. Result of variety advantage test;
  - b. Variety truth test;
  - c. Letter of readiness like what is mentioned in Article 10 letters d, e, f and g;
  - d. Letter of guarantee of the applicant for introduction variety, certifying that in 2 (two) years after the registration, the seed has to be produced in the country as long as the seed could not be produced in the country;
  - e. Variety description;

- f. Photo of plant/part of plant demonstrating the specialty/uniqueness.
- (3) The Head of PPVTPP, after receiving the application form as meant in paragraph (1) and (2) shall pass on the application to the Director General of Horticulture in no later than 3 (three) working days after finishing the examination of application document if the application is complete and has met the requirements.
- (4) The Head of PPVTPP, after receiving the application form as meant in paragraph (1) and (2) shall return the application to the applicant for completing in no later than 3 (three) working days after finishing the examination of application document if the application is not complete and fails to meet the requirements.
- (5) If the applicant does not complete the document as meant in paragraph (4) in no later than 14 (fourteen) working days, the application shall be deemed withdrawn.
- (3) If the result of the examination and evaluation shows that the application fails to meet the requirement as meant in paragraph (2), the application shall be returned to applicant through PPVTPP.
- (4) Varieties already fulfilling the registration requirements as meant in paragraph (1) shall be announced through website of PPVTPP (<http://www.setjen.deptan.go.id/ppvtnew>) and/or the Directorate General of Horticulture (<http://www.hortikultura.deptan.go.id>) for 30 (thirty) working days.
- (5) If the announced result of the examination and evaluation as meant in paragraph (4) faces no rejoinder from other party, registration identity shall be issued.
- (6) If the announced result of the examination and evaluation as meant in paragraph (4) faces rejoinder from other party, TP2VH shall clarify the issue to applicant.
- (7) In executing the clarification as meant in paragraph (6), TP2VH shall make decision in no later than 6 (six) months.
- (8) The registration identity as meant in paragraph (5) shall be stipulated in the form of decree of the Minister of Agriculture signed by the Director General of Horticulture on behalf of the Minister of Agriculture like Form Model-2 contained in the attachment as integral part of this regulation.
- (9) The registration identity as meant in paragraph (5) shall be submitted to the Head of PPVTPP, subsequently granted to applicant.

#### Article 16

- (1) The Director General of Horticulture, in no later than 25 (twenty five) working days after receiving the application as meant in Article 15 paragraph (3), shall have completed the examination and evaluation of the requirements as meant in Article 9 and Article 10.
- (2) The examination and evaluation of the document as meant in paragraph (1) shall be done by the Appraiser Team of Horticulture Variety Registration (TP2VH) stipulated by the Director General of Horticulture.

Article 17

TP2VH as meant in Article 16 paragraph (2) shall consist of at least 3 (three) persons.

Article 18

- (1) The decree as meant in Article 16 paragraph (7) shall contain at least:
  - a. name of applicant;
  - b. address of applicant;
  - c. kind of plant;
  - d. name of variety;
  - e. registration number of variety; and
  - f. variety description.
- (2) The registration number as meant in paragraph (1) letter e shall contain at least:
  - a. serial number of registration;
  - b. code of commodity group;
  - c. code of plant kind;
  - d. code of registration applicant; and
  - e. issuing year of registration identity.

CHAPTER IV

RELEASE OF VARIETY

Article 19

- (1) Every variety may only be released after securing registration number.
- (2) The release of the variety as meant in paragraph (1) shall become responsibility of variety owner or proxy thereof.
- (3) Procedures for releasing the variety as meant in paragraph (1) shall be as follows:
  - a. notifying in writing to the Director General of Horticulture; and

- b. announcing through printed media or electronic media; or
- c. site demonstration.

CHAPTER V

SUPERVISION OVER REGISTRATION IDENTITY

Article 20

- (1) Plant seed supervisor shall supervise the registered varieties.
- (2) If the plant seed supervisor finds:
  - a. mismatch between variety description and plant performance in characteristic becoming the main identifier of variety;
  - b. variety carrying new hazardous plant disturbing organism (OPT); and/or
  - c. variety causing environmental damage, the supervisor may recommend the revocation of the registration identity of the variety through service in charge of supervision and certification of horticulture seed to the Minister through the Head of PPVTPP with a copy made available to the Director General of Horticulture.
- (3) The Head of PPVTPP in not later than 3 (three) working days after receiving the revocation recommendation as meant in paragraph (2) shall submit it to the Director General of Horticulture.
- (4) The Director General of Horticulture after receiving the revocation recommendation from the Head of PPVTPP shall conduct evaluation in a period of 25 (twenty five) working days.
- (5) The evaluation of the revocation recommendation as meant in paragraph (4) shall be done by TP2VH as meant in Article 16 paragraph (2).



(6) If the evaluation carried out by TP2VH shows that the revocation recommendation as meant in paragraph (4) turns out to match the provision in paragraph (2), the Director General of Horticulture on behalf of the Minister shall revoke the registration identity of the variety.

(7) The revocation of the registration identity as meant in paragraph (6) shall be stipulated by a decree of the Minister of Agriculture and submitted to the Head of PPVTPP, subsequently granted to the owner of variety/proxy.

Article 21

The owner of the registration identity of variety shall be obliged to preserve the truth of variety and save seed or preserve plant as genuine variety (authentic).

CHAPTER VI

TRANSITIONAL PROVISION

Article 22

(1) The varieties already released before this ministerial regulation is promulgated shall be declared to remain effective like registration.

(2) The varieties already approved for the release in session of the Variety Appraisal and Release Team but release decision has not been issued until the ministerial regulation is promulgated shall secure registration identity of variety directly.

(3) The varieties already recommended to the Variety Release and Appraisal Team but not yet processed in session, shall be processed like variety registration ruled in this ministerial regulation.

CHAPTER VII

CONCLUSION

Article 23

Following the promulgation of this regulation, Regulation of the Minister of Agriculture Number 37/Permentan/OT.140/8/2006 as long as it rules verification, evaluation, release and withdrawal of horticultural varieties shall be declared null and void.

Article 24

The regulation shall come into force as from the date of promulgation.

For public cognizance, the regulation shall be promulgated by placing it in State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On July 14, 2011

THE MINISTER OF AGRICULTURE OF  
THE REPUBLIC OF INDONESIA

sgd.

SUSWONO

Promulgated in Jakarta

On July 20, 2011

THE MINISTER OF LAW AND HUMAN RIGHTS OF  
THE REPUBLIC OF INDONESIA

sgd

PATRIALIS AKBAR

STATE GAZETTE OF THE REPUBLIC OF INDONESIA  
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