

Decree on Plant Variety Rights

(907/1992)

Section 1 – Registration applications

- (1) Registration applications must be signed by the applicant or his/her representative and must include:
 - 1) the applicant's name, domicile and address and, if the applicant is represented by an agent, the agent's name, domicile and address;
 - 2) information on the variety's origin and the results of tests carried out with the variety;
 - 3) a temporary proposal for a variety denomination if a final proposal is not yet put forward;
 - 4) information on whether registration of the variety has been applied for in another state, whether a variety denomination has been proposed or approved in that context and what the authorities of said state have found in investigating the conditions for the registration of the variety;
 - 5) information on whether a priority right is applied for in accordance with section 10 below and on where and when any previous applications have been submitted; and
 - 6) information prescribed in section 10 of the Act on Plant Variety Rights (789/1992).
- (2) The following must be appended to the application:
 - 1) a proxy if the applicant is represented by an agent; and
 - 2) if a proposed variety denomination may be confused with a trademark related to plant variety material or similar goods to which the applicant has sole right, a certificate from the National Board of Patents and Registration stating that the trademark has been removed from the register of trademarks, or, if such a trademark has not been registered, the applicant's explanation that he/she has given up or notification stating that he /she is prepared to give up his/her right to use such a trademark.
- (3) The application, including its appendices, must be drawn up in Finnish, Swedish, Norwegian, Danish or English.

Section 2 – Register of applications

- (1) The Plant Variety Board maintains a register of all plant variety registration applications submitted to it.
- (2) The Plant Variety Board enters on the application the application's diary number and the date on which the application has been submitted to the Board.
- (3) The following entries must be made in the register:
 - 1) the date of receiving the application and the application's diary number;
 - 2) the botanical genus or species that the variety belongs to;
 - 3) a proposal for the variety's final or temporary denomination;
 - 4) the applicant's name, domicile and address;

- 5) if the applicant is represented by an agent, the name, domicile and address of the agent;
- 6) the breeder's name and address;
- 7) if a priority right has been requested, information on the state in which the application concerning the same variety has been made and the number of the application;
- 8) necessary information on the plant material delivered to the Board or an authority or institution nominated by the Board and on its propagation;
- 9) information on the documents submitted to the Board and the payments made;
- 10) any decisions made in the matter;
- 11) any delays in processing of the matter caused by previous applications; a corresponding entry must be made in the register where the previous application has been entered; and
- 12) information on any transfers of applications referred to in section 16 of the Act on Plant Variety Rights.

Section 3 – *Publication of the board*

The Plant Variety Board issues a publication containing data on plant variety rights registrations as provided in the Act on Plant Variety Rights and the Decree issued under it.

Section 4 – *Publishing registration applications*

- (1) If a registration application meets the requirements, the Board publishes the application.
- (2) The publication must include:
 - 1) the application's diary number;
 - 2) the applicant's name, domicile and address;
 - 3) the breeder's name and address;
 - 4) the botanical genus or species that the variety belongs to;
 - 5) the proposed final or temporary variety denomination;
 - 6) the date on which the application was submitted to the Plant Variety Board;
 - 7) whether a priority right has been requested and the state in which the previous application concerning the variety has been made and the date on which the application was made and the number of the application; and
 - 8) the date by which claims concerning the application must be made.

Section 5 – *Publication of proposals for amending variety denominations*

- (1) If, after a registration application has been published in accordance with section 4, a proposal is made to amend the variety denomination, the Plant Variety Board publishes the proposal.
- (2) The publication must include:
 - 1) the application's diary number;
 - 2) the applicant's name, domicile and address;
 - 3) the botanical genus or species that the variety belongs to;
 - 4) both the proposed new denomination and the previous denomination;
 - 5) the date on which the application was submitted to the Plant Variety Board; and
 - 6) the date by which claims concerning the application must be made.

Section 6 – *Filing a claim*

- (1) If a claim is made against a registration application or a proposal for a variety denomination, grounds for the claim must be given.
- (2) If an agent is used in filing the claim, the agent must present a proxy given by the claimant.

Section 7 – *Processing in the Board*

- (1) When processing a registration application, the Plant Variety Board must take into account the facts presented in the application and other facts affecting the process.
- (2) The Plant Variety Board may request expert opinions on issues related to the processing.
- (3) Anyone who applies for plant variety registration in Finland in respect of which a registration application has previously been made in another state is required to explain to the Board what this other country's authorities have found on the basis of the application made there.

Section 8 – *Entering a plant variety in the plant variety register*

The following information must be included in the plant variety register:

- 1) the application's diary number and the plant variety registration number;
- 2) the variety holder's name, domicile and address and, if the applicant is represented by an agent, the name, domicile and address of the agent;
- 3) the breeder's name and address;
- 4) the botanical genus or species that the plant variety belongs to;
- 5) the registered variety denomination;
- 6) the date on which
 - a) the registration application was submitted to the Plant Variety Board;
 - b) the variety denomination proposal was submitted to the Plant Variety Board;
 - c) the application was published;
 - d) the plant variety was registered; and
- 7) whether the plant variety has been granted the priority right referred to in section 12 of the Act on Plant Variety Rights and the state in which such a previous application concerning this variety has been made, including the date of application.

Section 9 – *Entries concerning assignment of plant variety rights and licences and certain other entries to be made in the plant variety register*

- (1) In addition to what is provided in section 25 of the Act on Plant Variety Rights on entries to be made in the register, an entry is made in the register concerning the payment of the annual fee.
- (2) The entries must include the names, domiciles and addresses of the holders of the rights and the dates concerning the measures referred to in subsection 1. If a party entitled to a licence so requests, the register must also include information on whether and how the variety holder's rights have been restricted in the licence.
- (3) If an appealing party so requests, the register must also include entries on appeals concerning final decisions on plant variety rights made by the registration authorities. Court decisions made in the matter are also entered in the register.

- (4) On request, distraint and confiscations imposed on plant variety rights must also be entered in the register, as well as notifications on changing agents.
- (5) If questions concerning entries in the register cannot be solved without delay, an entry must be made in the register to the effect that an entry has been requested.

Section 10 – *Entries concerning priority right*

In order to be granted the priority right referred to in section 12 of the Act on Plant Variety Rights, the following is required:

- 1) a priority right is specifically requested on application;
- 2) copies of a previous application and related documents are submitted to the Plant Variety Board within three months of submission of the application to the Board; the copies must be certified correct by the authority that originally received the application concerning said variety; and
- 3) other documents and plant material needed for processing the priority right issue have been delivered to the Plant Variety Board within four years of expiry of the priority period; if a previous application has been refused or cancelled, the Board may also issue other provisions concerning the period within which the last mentioned documents and plant material must be delivered to the Board.

Section 11 – *Removal of plant varieties from the plant variety register*

If a variety holder announces that he/she waives his/her plant variety rights, if the annual fee is not paid within the prescribed period, if a court declares the plant variety rights annulled or if the Plant Variety Board declares the plant variety rights lost, the Plant Variety Board removes the plant variety from the register as soon as the court or Board decision has gained legal force.

Section 12 – *Notifications to the National Board of Patents and Registration*

If an applicant has appended to his/her application an explanation or notification as referred to in section 1(2)(2), the Plant Variety Board notifies the National Board of Patents and Registration of this and the registered variety denomination as soon as the decision on the registration of the plant variety has gained legal force.

Section 13 – *Notifications to licence holders*

If a variety holder announces that he/she gives up his/her plant variety rights and a licence concerning such a plant variety has been entered in the register, the Board must notify the licence holder in order to reserve a reasonable time for the holder to assert his/her rights before the Plant Variety Board removes the plant variety from the register.

Section 14 – *Publishing registrations of plant variety rights or refusals of applications*

When publishing decisions on the registration of plant variety rights or refusals of applications, the plant variety registration date, the register number, the application's diary number and the date on which the application was submitted to the Plant Variety Board must be included.

Section 15 – *Other issues to be published*

The Plant Variety Board must publish Board decisions that have gained legal force concerning removal of the plant variety from the plant variety register, amendment of a registered variety name or assignment of plant variety rights to a third party.

Section 16 – *Entry into force*

This Decree enters into force on 15 October 1992.