

Seeds and Seedlings Law Enforcement Regulation
(Unofficial Translation)

Ordinance of the Ministry of Agriculture, Forestry and
Fisheries No.83, December 3, 1998

(Categories of the Agricultural, Forestry and Aquatic Plants)

Section 1. The categories to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries under Subsection 6 of Section 2 of the Seeds and Seedlings Law (hereinafter referred to as “Law”) shall be as set out in the middle column of the schedule 1, and the agricultural, forestry and aquatic plants belonging to each category shall be as set out in the lower column corresponding thereto respectively.

(Genera and Species of the Perennial Plants)

Section 2. The genera and species of the agricultural, forestry and aquatic plants to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries shall be those of the woody plants.

(Language, etc. of the Documents)

Section 3. The documents relating to application for variety registration shall be written in Japanese except for those stipulated in the following Subsection.

2. A document such as power of attorney which is written in foreign language shall be accompanied by a translation thereof.

(Procedure of Application for Variety Registration)

Section 4. The application for variety registration shall be filed, accompanied by one copy each of an application and written explanation on each application basis.

2. The person who wishes to file his or her application for variety registration with respect to a variety the seeds and seedlings of which are a seed or spawn shall submit the seed or strain of such variety upon such application.

(Particulars, etc. to be contained in an Application)

Section 5. As to the genera and species of the agricultural, forestry and aquatic plants under Paragraph 2 of Subsection 1 of Section 5 of the Law, a name of a species to which the applied variety belongs shall be contained. However, where the applied variety belongs to a plant set out in the lower column of the schedule 2, a name of a genus or species set out in the middle column corresponding thereto respectively shall be contained, or where it belongs to a genus set out in the paragraph of the schedule 3, a name of the genus shall be contained.

2. The particulars to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries under Paragraph 5 of Subsection 1 of Section 5 of the Law shall be as follows:

- 1) Where the applied variety is a variety bred by an employee as part of his duties, the fact.
- 2) Where the applied variety is a variety for which the application equivalent to the application for variety registration has been filed to the foreign authorities, a name of the state in which such application has been filed and title of such application.
- 3) Where the applicant claims the right of priority under the provisions of Subsection 1 of Section 11 of the Law, the fact and a name of the state in which the first application to contracting state was filed (or in case of an intergovernmental organization, a name of the organization) and date of the application to contracting state or a name of the state in which the first application has been filed among the applications to contracting states (or where the applicant belongs to a designated state, such application to designated state; hereinafter referred to as “first application to designated state”) and date of the application to designated state.

- 4) Where 2 or more persons jointly file their application for variety registration, and in any case where there are the provisions for the shares of the breeder's right arising from the variety registration, or where there are the provisions under Subsection 2 of Section 23 of the Law, or where an agreement under the proviso clause of Subsection 1 of Section 256 of the Civil Code (Law No.89, 1896) which is applied mutatis mutandis in Section 264 of the said Code, the fact.
- 5) Where the seeds and seedlings or harvested materials of the applied variety has been commercially transferred before the day of application (except for transfer for testing or research or transfer contrary to the intent of the breeder), a date of the first transfer in Japan, and a date of the first transfer in a foreign state and the state where such transfer was made.
- 6) List of the items submitted and accompanying documents.

3. An application shall be prepared in the form 1 separately attached.

(Documents accompanying an Application)

Section 6. An application referred to in Subsection 1 of Section 5 shall be accompanied by the documents set out below. However, where the document referred to in Paragraph 4 can not accompany the application at the time of filing thereof, it may be submitted within 3 months reckoning from a day following the day of application.

- 1) Where all or any of the applicants are the persons other than those who have bred the applied variety, a document certifying that they are the successors of the persons who have bred the applied variety.
- 2) Where applied through an agent, a document certifying his or her authority.
- 3) Where the applicant is a foreigner, a document certifying his or her nationality or any one of the documents set out below:
 - a. Where the applicant has a domicile or residence (or in case of a legal person, its establishment) in Japan, a document certifying the fact.
 - b. Where the applicant has a domicile or residence (or in case of a legal person, its establishment) in a contracting state, etc. or member state other than Japan, a document certifying the fact.
 - c. Where a state to which the applicant belongs (except for contracting states, etc. and member states) grants protection to a Japanese national for breeding of a variety under the same conditions as those applicable to a national of the state, or the state grants protection to a Japanese national on condition that Japan allows a national of the state to enjoy the breeder's right and other rights in connection with the breeder's right, a document certifying the fact and document certifying that such state grants protection for breeding of a variety with respect to the applied variety.
- 4) Where the applicant claims the right of priority pursuant to the provisions of Subsection 1 of Section 11 of the Law, a document certifying that the first application to contracting state or the first application to designated state has been filed.

(Particulars, etc. of a Written Explanation)

Section 7. The particulars to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries shall be as follows:

- 1) Characteristics of a plant of the applied variety and characteristics by which it is clearly distinguishable from another plant.
- 2) Method of propagation of the applied variety.
- 3) Where the seeds and seedlings of the variety are not a seed or spawn, the state of preservation of a plant of the applied variety.
- 4) Course of breeding of the applied variety.
- 5) Primary use of the applied variety and particulars to be noted in cultivation.

2. A written explanation shall be prepared in the form 2 separately attached.

3. The photograph referred to in Subsection 2 of Section 5 of the Law shall be one taken to express the characteristics of a plant of the applied variety (except for those for which a photograph can not be taken) by which such plant is clearly distinguishable from another plant.

(Amount, etc. of an Application Fee)

Section 8. The amount to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries under Subsection 1 of Section 6 of the Law shall be \47,200.

2. The application fee shall be paid by affixing a revenue stamp to an application.

(Notification of Transfer of Status of the Applicants)

Section 9. The notification under Subsection 2 or Subsection 3 of Section 7 of the Law shall be made by submitting a written notification in the form 3 or form 4 separately attached, as the case may be, to the Minister for Agriculture, Forestry and Fisheries.

2. The notification under Subsection 2 of Section 7 of the Law shall be made jointly by all applicants before transfer of status of the applicants and the persons to whom the transfer of status of the applicants are effected.

3. Where there are the provisions for the shares of the breeder's right arising from the variety registration, or where there are the provisions under Subsection 2 of Section 23 of the Law, or where there is an agreement under the proviso clause of Subsection 1 of Section 256 of the Civil Code which is applied mutatis mutandis in Section 264 of the said Code, the fact shall be contained in the written notification under Subsection 1.

4. The written notification under Subsection 1 shall be accompanied by a document certifying that the persons to whom the transfer of status of the applicants under Subsection 2 is effected or the general successors under Subsection 3 of Section 7 of the Law are the successors of the applicants.

(Special Exceptions to Submission of Material for Application with Claim of the Right of Priority)

Section 10. Where the applicant who has claimed the right of priority pursuant to the provisions of Subsection 1 of Section 11 of the Law is required to submit the material in relation to the application with claim of such right of priority pursuant to the provisions of Subsection 1 of Section 15 of the Law, the applicant shall submit such material on or before the day of expiration of 3 years reckoning from a day following the day of the application to contracting state or application to designated state. However, the provisions shall not apply where the first application to contracting state or the first application to designated state is rejected, or the applicant withdraws or waives the first application to contracting state or where the first application to designated state or the Minister for Agriculture, Forestry and Fisheries designates a day later than the day of expiration of such 3 years.

(Withdrawal, etc. of the Application for Variety Registration)

Section 11. The withdrawal of the application for variety registration shall be made in the form 5 separately attached, and the waiver of the application for variety registration in the form 6 separately attached.

(Form of a Statement of Arguments)

Section 12. A statement of arguments under Subsection 2 of Section 17 of the Law shall be prepared in the form 7 separately attached.

(Particulars to be publicly announced with respect to Variety Registration)

Section 13. The particulars to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries under Subsection 3 of Section 18 of the Law shall be as follow:

- 1) Number and date of the variety registration.
- 2) Genus or species of the agricultural, forestry and aquatic plant to which the registered variety belongs.
- 3) Denomination of the registered variety.
- 4) Summary of the characteristics of the registered variety.

- 5) Term of existence of the breeder's right.
- 6) Name or trade name and domicile or residence of the person who obtains the variety registration.
- 7) Name and domicile or residence of the person who has bred the registered variety.
- 8) Date of publication of the application.
- 9) Summary of the course of breeding of the registered variety.

(Issuance of a Variety Registration Certificate)

Section 14. Where completing the variety registration, the Minister for Agriculture, Forestry and Fisheries shall issue a variety registration certificate to the breeder's right holder, accompanied by a document stating the characteristics of the registered variety.

2. The variety registration certificate referred to in the preceding Subsection shall be in the form 8 separately attached.

(Methods to breed a Dependent Variety)

Section 15. The methods to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries under Paragraph 1 of Subsection 2 of Section 20 of the Law shall be as follows:

- 1) Selection of a variant
- 2) Backcrossing
- 3) Genetic recombination.
- 4) Cell fusion (limited to asymmetric fusion).

(Vegetative Propagation Plants to which the Breeder's Right extends for Home Multiplication by Persons engaged in Agriculture)

Section 16. The plants subject to nutritional propagation to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries under Subsection 3 of Section 21 of the Law shall be the plants which belong to the genera and species set out in the schedule 4.

(Genera and Species of the Similar Agricultural, Forestry and Aquatic Plants)

Section 17. The genera and species of the agricultural, forestry and aquatic plants to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries under Subsection 2 of Section 22 of the Law shall be set out in the following Paragraphs:

- 1) Where a genus or species of an agricultural, forestry and aquatic plant to which the registered variety belongs is that belonging to Iris, Viola, Dianthus, めかぼ属, Hibiscus, バンカム属, Actinidiaceae or □-ドデンド□ン属, they shall be the genera and species of other agricultural, forestry and aquatic plants which belong to such genera.
- 2) Where a genus or species of an agricultural, forestry and aquatic plant to which the registered variety belongs is that belonging to any of those set out in the paragraphs of the schedule 5, they shall be other agricultural, forestry and aquatic plants set out in said paragraphs.

(Form of Request for Arbitration)

Section 18. The request for arbitration under Subsection 2 of Section 28 of the Law shall be made by submitting a written request in the form 9 separately attached to the Minister for Agriculture, Forestry and Fisheries.

(Amount, etc. of a Registration Fee)

Section 19. The amounts to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries under Subsection 1 of Section 38 of the Law shall be the amounts set out in the right column of the following table in accordance with the categories set out in the left column of the said table.

Categories of Years Elapsed	Amounts
-----------------------------	---------

1st year to 3rd year	\6,000 per year
4th year to 6th year	\9,000 per year
7th year to 9th year	\18,000 per year
10th year to 25th year	\36,000 per year

2. Payment of the registration fee shall be made pursuant to the form 10 separately attached.

(Procedure of Request for Certification, etc.)

Section 20. The person who requests to obtain certification, issuance of an exemplified copy or extract of a document, or inspection or copying of a document shall do so by submitting a written request stating the particulars set out below.

- 1) In case of an applied variety, the application number for variety registration and denomination of the applied variety.
- 2) In case of a registered variety, the variety registration number and denomination of the registered variety.
- 3) Name or trade name and domicile or residence of the person making request.
- 4) Particulars to be requested.

(Amounts of Fees)

Section 21. The amounts to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries under Subsection 1 of Section 47 of the Law shall be as set out in the following table:

	Persons who shall make payment	Amounts
1	Person who requests the certification under the provisions of Paragraph 1 of Section 46 of the Law.	\1,500 per request
2	Person who requests to issue an exemplified copy or extract of the register of plant varieties or a document in which the matters recorded in the part of the register of plant varieties prepared with magnetic disks are stated under the provisions of Paragraph 2 of Section 46 of the law.	\350 per request
3	Person who requests the inspection or copying of the register of plant varieties under the provisions of Paragraph 3 of Section 46 of the Law.	\250 per request
4	Person who requests the inspection or copying of an application or a photograph or other materials attached thereto under the provisions of Paragraph 3 of Section 46 of the Law.	\1,100 per request

2. The fee shall be paid by affixing a revenue stamp to the written request.

(Notification by a Seed and Seedling Dealer)

Section 22. The notification under the provisions of Subsection 1 of Section 49 of the Law shall be given by submitting a written notification in the form 11 separately attached to the Minister for Agriculture, Forestry and Fisheries.

2. The seed and seedling dealers to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries under the proviso clause of Subsection 1 of Section 49 of the Law shall be prefectures and the persons who are engaged in the business to sell the designated seeds and seedlings solely to the persons other than the seed and seedling dealers.

3. The particulars to be specified by an Ordinance of the Ministry of Agriculture, Forestry and Fisheries shall be a location of an establishment.

(Particulars to be labeled in the Designated Seeds and Seedlings)

Section 23. The germination percentage under Paragraph 4 of Subsection 1 of Section 50 of the Law shall be labeled pursuant to the provisions of the said Subsection or shall be labeled with the minimum percentage in the month and year where the voucher was attached as follows.

Germination percentage __% or more as of ____ (month), __ (year).

2. Notwithstanding the provisions of the preceding Subsection, the germination percentage of such of the seeds and seedlings for home gardening (meaning the seeds and seedlings to be sold exclusively for the purpose of home gardening) which are specified by the Minister for Agriculture, Forestry and Fisheries may be labeled in the manner prescribed by the Minister for Agriculture, Forestry and Fisheries.

3. The particulars to be specified by an Ordinance of the Agriculture, Forestry and Fisheries under Paragraph 6 of Subsection 1 of Section 50 of the Law shall be as follows.

- 1) Where the seeds and seedlings have been subjected to disease and insects control with chemicals, the fact and names of the chemicals used.
- 2) In case of the seeds and seedlings, a date of manufacture and existence or non-existence of harmful fungi specified by the Minister for Agriculture, Forestry and Fisheries.

(Identification Card)

Section 24. The identification card under Subsection 2 of Section 53 of the Law shall be in the form 12 separately attached.

(Report)

Section 25. The reports to be made under the provisions of Subsection 4 of Section 4 of the Executive Order under Seeds and Seedlings Law (Cabinet Order No. 368, 1998) shall be made without delay by submitting the documents carrying the items cited in Paragraph 1 hereinbelow in the case where the designated seeds and seedlings have been collected, the items cited in Paragraph 2 hereinbelow in the case where an order to submit the report has been made, and the items cited in Paragraph 3 hereinbelow in the case where an order to submit the documents has been made:

- (i) the name and address of the seed and seedling dealer who has collected the designated seeds and seedlings, the date and place when and where such collection has been made, and the contents of inspection and its results
- (ii) the name and address of the seed and seedling dealer to whom an order to report is made, and the contents of the report made by the seed and seedling dealer
- (iii) the name and address of the seed and seedling dealer to whom the order to submit the documents has been made, and the kind of the documents