

Plant Breeders' Rights Regulations, 5734–1974

(as consolidated 2014)

[Prepared by WIPO]

Pursuant to my authority under section 104 of the Plant Breeders' Right Law, 5733–1973, I hereby enact the following regulations:

Submission of Application

1. (a) An application to register a Breeders' right in the Rights register (Hereinafter – Application for registration) shall be submitted to the Registrar in three copies and shall be –
 - (1) Written in indelible ink or dark color;
 - (2) Written in lines which are spaced in a manner allowing writing in corrections;
 - (3) Written on one side of the sheet only.
- (b) The application for registration shall include the following:
 - (1) the name of the applicant;
 - (2) An address in Israel for delivery of document, and if the applicant is not an Israeli resident – the name of the his representative, who is authorized to represent him in any matter relating to the application, and his address for delivery of document;
 - (3) Description of the variety, name of the breeder, and the particulars of the variety bred, including particulars on its' characteristics;
 - (4) The denomination proposed for the variety;
 - (5) a claim or claims that specify the distinctness of the variety, each claim reasonably arising from the particulars described.
- (c) Where the applicant represents a breeder, he shall indicate in his application the name of the breeder.
- (d) The applicant may indicate in the application for registration that the sale of seeds of the new variety shall be contingent on them being modified, and if the fact thereof is certified by the Council, it shall be registered in the Rights' register.
- (e) Upon submitting the application for registration, an application fee shall be paid, as prescribed in the Schedule, as well as a fee for publication in the Reshumot.
- (f) This regulation shall also apply on submitting an application under section 103 of the Law, *mutatis mutandis*.

Notice on submission of application overseas

2. (a) Where a person desires to apply for registration overseas prior to submitting his application for registration in Israel, he shall notify the Registrar to that effect via registered mail thirty days prior to submitting the application overseas.
- (b) Where a person submitted an application, pursuant to the Law of the Regulations overseas, and failed to give notification, as said in subregulation (a), he shall not be permitted to submit an application for registration in Israel for the same variety before the following particulars were noted in the application: his name and address, the name of the foreign country, and the date and number of application.

The Register of Rights

3. Registration in the Register of Rights in this matter shall be noted on sheets in the original and in copy, and shall include the following:
 - (1) The name of the holder of the right and the basis of his right;
 - (2) The name of the breeder when different from the holders;
 - (3) The denomination of the variety;
 - (4) Concise description and specification of the variety's basic characteristics'
 - (5) In respect of a hybrid variety – the denomination of the variety's parents, if the Council so decides or at the breeder's request;
 - (6) The claims aforesaid in section 20(a)(5) of the Law, accepted for the purpose of registration;
 - (7) A condition which prescribes that seeds sold from the new variety shall be modified seeds; if so approved by the Council;
 - (8) Any other particular to be registered which is of interest to the public in the opinion of the Registrar.

Inspection of documents

4. The documents which are open for inspection under the Law or these Regulations, excluding a document necessary for the Registrar's work, shall be put for public inspection in the office hours of the Registrar's office.

Forms

5. (a) Where the Law or by these Regulations mandates the filing of a notification or application, it shall be submitted by no form other than that prescribed for the purpose of that matter.

(b) Where no form had been prescribed as said in subregulation (a), the application or notification shall be submitted in writing in the manner prescribed for the purpose of submission of documents to the Registrar, and they shall specify the particulars prescribed under these regulations, in addition to the name of the person filing the form, his place of residence, an address for delivery of documents and his nationality.

Tracking field-experimentation

6. (a) An applicant who wishes to track field-experimentation related to his application, shall submit a written application to the Registrar.
- (b) The Registrar shall reply in writing to the applicant with regards to the location and date in which he may track the field-experiments.
- (c) If tracking involves any expenses, the Registrar shall act in accordance with section 16(b) of the Law.

Duty to pay fees

7. The Registrar may not require any application or service specified in the Schedule and neither he, nor the Council, may perform any act specified in it before the fee prescribed in schedule was paid for; Nevertheless, non-payment of a fee, in whole or in part, shall not be cause for disqualification of the application, the act or the service, unless otherwise provided.

Who pays the fee?

8. (a) Any person who files an application to the Registrar, who brings before him a proceeding which requires him to perform an act for which a fee is mandated, shall pay the fee for the filing of the application, for bringing forth the proceeding or for requiring the performing of an act, unless otherwise provided for in that matter.
- (b) Where the Law or Regulations prescribe that a fee must be paid for the publication of a matter or for expenses relating to tracking of field experimentation, and the Registrar gave notice that the matter is to be performed, the fees or expenses shall be paid within one month from the date of said notice.

Fee for registration of Breeders' Right and its' existence

9. (a) The fee for the registration of a breeders' right shall be paid in following the rate prescribed in the Schedule.

(b) A yearly fee for the existence of a breeders' right shall be paid each year following its' registration, on the month of January, in the rate prescribed in the Schedule.

Holder of a prior right

10. Where a court decided that the right of another to be registered as the holder of breeders' rights outweighs the rights of the registered holder, the validity of a said prior right shall be in effect from the day it was registered in the Rights register of the Breeders' right which was revoked.

Registration process for a prior right

11. The holder of a prior right, as aforementioned in regulation 10, must perform the following:

- (1) Pay the fee in the rate prescribed in the Schedule;
- (2) Submit an application for registration to the Registrar, in addition to the material filed during opposition;
- (3) Provide any other particular requested by the Registrar;
- (4) Pay any fee necessary for additional examinations if so required by the Council.

Submission of documents regarding proceedings in a contested case

12. (a) Where a party to a proceeding in a contested case may, or is under the duty, to give the Registrar a notice, an application, a response, statement of claims, evidence or any other document regarding said proceeding, then the party submitting the aforesaid document shall be obliged to deliver, at the time of submission, two copies of the document to any person who is party to the proceeding, unless otherwise provided for the purpose of this matter.

(b) The Registrar may request, at any time, from any party who is required to submit a document pursuant to subregulation (a), that he shall submit a certification of delivery or any other evidence which may satisfy him that the aforesaid document has been indeed delivered.

(c) Where a person failed to submit to the Registrar a document he had been required to submit under subregulation (a), the document which was delivered to the Registrar shall be deemed as if it had not been delivered, until after copies have been delivered to the parties of the proceeding; in this regard, "delivery" – including delivery by post in an addressed letter regarding the person of concern for whom postal fees were paid.

(d) Where a person had submitted to the Registrar a document to which subregulation (a) does not apply, and it contains a defect prima facie, or the prescribed fee has not been attached to it, the Registrar shall notify the applicant to that fact, as soon as possible after the document was submitted to the Registrar, and the document shall be deemed as if it had not been delivered so long as the defect is not corrected or the missing fee was not paid for.

Application to obtain extract

13. Where a person wishes to obtain an extract certified by the Registrar's seal of anything in the Register of Rights or of documents open to public inspection under section 96 of the Law, he shall pay the fee prescribed in the Schedule and shall specify in his application he following:

- (1) The name of the applicant and his address;
- (2) The document and the requested particulars;
- (3) Address for delivery;

Application for amendment of the Register of Rights

14. (a) an application to amend a registration in the Register of Rights or in another document shall be submitted to the Register accompanied by a receipt for paid fees as prescribed in the Schedule, and shall include the following:

- (1) The particulars of the requested amendment and a specification of the facts necessitating the amendment;
- (2) Reasons and evidence for performing the requested amendment;
- (3) An explanation of the relation of the applicant to the subject of the amendment.

(b) A person who deems himself aggrieved by the requested amendment under subregulation (a) may submit to the Registrar his claims within thirty days after he was notified of the application or after the notification thereof was published in the Reshumot, whichever is later.

Application to amend clerical errors

15. An application to amend a clerical error that occurred in the specification in the Register of Rights or in a document issued by the Registrar, shall be submitted to the Registrar in writing denoting the particulars of the error and with an attached receipt attesting to payment of fees in the rate prescribed in the Schedule.

Effect

16. These Regulations shall come into force on 2nd of Adar, 5734 (February 24th, 1974).

Title

17. These Regulations shall be named "Plant Breeders' Rights Regulations, 5734–1974".

Schedule

(Regulations 1, 7, 9, 13 and 15)

	<u>Fee Rates in NIS</u>
For submitting an application for registration of a Breeders' Right in the Register of Rights	132
Publication Fee	132
For Publication of a prior right	132
For publication of an application for amendment of the Register of Rights	132
For application for protection of denomination of a variety	66
For registration of existence of a Breeders' Right in the Register of Rights for one year	132
Additional fees for the existence of a Breeders' Right subsequent an extension to pay fees.	66
For an application to reinstate a lapsed right	284
For a copy of a Breeders' Right certificate	40
For an application to obtain a document or certification from the Registrar or the Office where no other fees had been prescribed	47.5
For an application to amend the Register of Rights or any other document or to complete them if no other fee had been prescribed	47.5
For submitting documents in proceedings in a contested case	104
For a certified extract of anything of the Register of Breeders' Rights or any other document open for inspection	47.5
For an application to transfer rights and for registration as a Right holder in a variety	132

23rd of Shvat, 5734 (February 15th, 1974)

Chaim Gavti
Minister of Agriculture