

The Seeds and Seedlings Act
(Act No. 83 of May 29, 1998)
Amended up to Act No.59 of June 17, 2005
[ENTRY INTO FORCE: December 1, 2005]

The Seeds and Seedlings Act (Act No. 105 of 1947) is entirely revised.

- Chapter 1. General Provisions (Articles 1 to 2)
- Chapter 2. Variety Registration System
- Section 1. Variety Registration and Application for Variety Registration (Articles 3 to 12)
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Chapter 1. General Provisions

(Purpose)

Article 1.

The purpose of this Act is to promote the breeding of plant varieties and the rational distribution of seeds and seedlings by providing for a system relating to the registration of plant varieties for the protection of new plant varieties and regulations relating to the labelling of designated seeds and seedlings, so as to contribute to the development of agriculture, forestry and fisheries.

(Definitions, etc.)

Article 2.

(1) The term "agricultural, forestry and aquatic plants" as used in this Act shall mean spermatophyte, pteridophyte, bryophyte and multicellular algae and other plants designated by the Cabinet Order, which are cultivated for the production of agricultural, forestry and aquatic products, and a "plant" shall mean an individual of agricultural, forestry and aquatic plants.

(2) The term "variety" as used in this Act shall mean a plant grouping which can be distinguished from any other plant grouping by all or parts of the important characteristics of the plant grouping (hereinafter referred to as "characteristics") and which can be propagated while maintaining its characteristics without change.

(3) The term "seeds and seedlings" as used in this Act shall mean entire plants or parts of plants used for propagation.

(4) The term "processed products" as used in this Act shall mean the products made directly from the harvested material obtained from the seeds and seedlings and which are designated by the Cabinet Order.

(5) The term "exploitation" in relation to a variety as used in this Act shall mean the following acts:

(i) production, conditioning, offering for transfer, transferring, exporting, importing or stocking for the purpose of these acts, of seeds and seedlings of the variety; and

(ii) production, offering for transfer or lease, transferring, leasing, exporting, importing or stocking for the purpose of these acts, of the harvested material obtained through using seeds and seedlings of the variety (limited to cases where the holder of the breeder's right or the holder of the exclusive exploitation right has not had reasonable opportunity to exercise his/her right for the acts mentioned in the preceding item).

(iii) production, offering for transfer or lease, transferring, leasing, exporting, importing or stocking for the purpose of these acts, of the processed products of the variety (limited to cases where the holder of the breeder's right or the holder of the exclusive exploitation right has not had reasonable opportunity to exercise his/her right for the acts mentioned in the preceding two items).

(6) The term "designated seeds and seedlings" as used in this Act shall mean seeds and seedlings (excluding those of forest trees) which are designated by the Minister for Agriculture, Forestry and Fisheries, and appear in the form of seeds, spores, stems, roots, seedlings, saplings, scions, rootstocks, spawn or other parts of plants designated by the Cabinet Order as requiring certain matter to be labeled at the time of their sale, in order to facilitate identification of the quality, and the term "seed and seedling dealer" as used in this Act shall mean any person engaged in the sale of designated seeds and seedlings in the course of trade.

(7) The Minister for Agriculture, Forestry and Fisheries, shall, after having heard the opinions of the Agricultural Materials Council, determine and publicly notice the important characteristics referred to in paragraph (2) of this Article for each of the classes, specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries, of agricultural, forestry or aquatic plants.

Chapter 2. Variety Registration System

Section 1. Variety Registration and Application for Variety Registration

(Condition for Variety Registration)

Article 3.

(1) Any person who has bred (meaning the fixation or determination of characteristics resulting from artificial or natural variation; the same meaning shall apply hereinafter) a variety fully meeting the requirements set forth below or his/her successor in title (hereinafter referred to as "breeder") may have a registration for the variety (hereinafter referred to as "variety registration").

(i) the variety is clearly distinguishable, in all or parts of the characteristics, from any other variety which has been publicly known in Japan or foreign states before the filing of the application for variety registration.

(ii) all of the plants of the variety at the same propagation stage are sufficiently similar in all of the characteristics.

(iii) all of the characteristics remain unchanged after repeated propagation.

(2) When the filing of an application for variety registration or an equivalent application in a foreign state leads to the granting of the breeder's right, the variety shall be deemed to have been publicly known at the time of the filing of the application.

Article 4.

(1) A variety may not be registered, when the denomination of the variety pertaining to the application for variety registration (hereinafter referred to as "applied variety") falls under any of the following items:

(i) when there is more than one denomination for the variety;

(ii) when the denomination is identical or similar to a registered trademark pertaining to the seeds and seedlings of the variety or a registered trademark pertaining to goods similar to the said seeds and seedlings;

(iii) when the denomination is identical or similar to a registered trademark pertaining to services relating to the seeds and seedlings of the variety or goods similar to the said seeds and seedlings; or

(iv) when it is likely to cause misidentification of the variety or confusion in respect of its identification (excluding the cases set forth in the preceding two items).

(2) A variety may not be registered when the seeds and seedlings or harvested material of the variety have been transferred in the course of trade, in Japan earlier than one year before the date of application for variety registration, or in a foreign state earlier than four years before the date of such an application for variety registration (or earlier than six years in the case of the variety belonging to a genus or species of agricultural, forestry or aquatic plant specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries as a perennial plant). However, this shall not apply when such transfer was made for the purpose of experiment or research, or when such transfer was made against the will of the breeder.

(Application for Variety Registration)

Article 5.

(1) A person desiring a variety registration shall submit an application to the Minister for Agriculture, Forestry and Fisheries, pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries, stating the following matters:

(i) the name and the domicile or residence of the applicant for the variety registration;

(ii) the genus or species of the agricultural, forestry or aquatic plant to which the applied variety belongs;

(iii) the denomination of the applied variety;

(iv) the name and the domicile or residence of the person who has bred the applied variety; and

(v) matters prescribed by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries in addition to what is listed in the preceding items.

(2) The application set forth in paragraph (1) of this Article shall be attached by a written explanation giving the matters specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries and photographs of the plant of the applied variety, pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(3) When two or more persons have bred the variety jointly, they shall file an application for variety registration jointly.

(Application Fee)

Article 6.

(1) The applicant shall pay an application fee for his/her application specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries but not exceeding 47,200 Yen.

(2) The provision set forth in the preceding paragraph shall not be applied when the applicant is the national government, including Independent Administrative Institution designated by the Act on General Rules of Independent Administrative Institution (Act No.103 of 1999) Article 2 paragraph (1) that are designated by the Cabinet Order to deal with variety breeding activities; this proviso shall apply to the paragraph (3) of this Article, Article 38 paragraphs (2) and (3), and Article 47 paragraph (2).)

(3) Notwithstanding the provision of paragraph (1) of this Article, when the national government and another person jointly apply for variety registration and they have an agreement on the sharing of the breeder's right to be granted by variety registration, such other person shall pay an amount calculated by multiplying the amount of the application fee set forth in paragraph (1) of this Article by the percentage of the share of such other person.

(4) When there is a fraction less than 10 Yen in the amount of the application fee as calculated pursuant to the provision of paragraph (3) of this Article, such a fraction shall be discarded.

(Transfer of the Title of Applicant)

Article 7.

(1) The title of applicant may be transferred.

(2) Any transfer of the title of applicant shall not take effect without notification to the Minister for Agriculture, Forestry and Fisheries pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries, except in the case of transfer by inheritance or other general succession.

(3) When the title of applicant is transferred as a result of inheritance or other general succession, the successor shall notify, without delay, the Minister for Agriculture, Forestry and Fisheries accordingly, pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(Variety Bred by an Employee as part of his/her Duties)

Article 8.

(1) With respect to a variety bred by an employee, an executive officer of a juridical person, or a national or local governmental officer (hereinafter referred to as the "employee etc."), any contractual provision, service regulation or other stipulation providing in advance that the employer, juridical person, or national or local government (hereinafter referred to as the "employer etc.") can file an application for variety registration, or have the title of applicant transferred to him, or, when the employee etc. has had a variety registered, have the breeder's right transferred to the employer etc. or establish an exclusive exploitation right on the registered variety for him, shall be null and void. However, this shall not apply when the breeding of the variety by reason of its nature falls within the scope of the business of the employer etc. and, moreover, the acts resulting in the breeding of the variety fall within the duties of the employee etc. (hereinafter referred to as a "variety bred by an employee as part of his/her duties").

(2) An employee etc. may make a claim on the employer etc. for the payment of compensation to be determined in consideration of the profit receivable by the employer etc. from a variety bred by that employee as part of his/her duties and the extent to which the employer etc. contributed to the breeding of that variety, when, in accordance with a contract, service regulation or other stipulation, the employer etc. files an application with respect to the variety bred by that employee as part of his/her duties or has the title of applicant transferred to the employer etc., or, when the employee etc. has had a variety registered, has the breeder's right succeeded to the employer etc. or establishes an exclusive exploitation right on the registered variety for the employer etc.

(3) When an employee etc. or his/her successor has been granted a variety registration relating to a variety bred by himself as part of his/her duties, his/her employer etc. or his/her successor shall receive a non-exclusive exploitation right on the variety concerned.

(First-to-file Rule)

Article 9.

(1) When two or more applications for variety registration are filed for a variety or for varieties that are identical or not clearly distinguishable from each other on the basis of characteristics, only the first applicant shall be considered for the grant of variety registration.

(2) When an application for variety registration is withdrawn or dismissed, such an application shall, for the purpose of paragraph (1) of this Article, be deemed never to have been made.

(3) An application for variety registration filed by a person who is not a breeder shall, for the purpose of paragraph (1) of this Article, be deemed not to be an application for variety registration.

(Rights of Foreign Nationals)

Article 10.

(1) A foreign national who has neither domicile nor residence (nor registered office, in the case of a juridical person) in Japan may not enjoy a breeder's right or any other right related to a breeder's right, except in cases falling under any of the following items:

(i) when the State to which the person belongs or the State in which the person has domicile or residence (in the case of a juridical person, its registered office) is one of the member States of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, on October 23, 1978 and on March 19, 1991 (hereinafter referred to as "Contracting Parties") or member States of intergovernmental organizations which are bound by the said Convention (hereinafter referred to as "Intergovernmental Organizations";

"Contracting Parties and Intergovernmental Organizations" being hereinafter collectively referred to as "Contracting Parties etc.")

(ii) when the State to which the person belongs or the State in which the person has domicile or residence (in the case of a juridical person, its registered office) is a member States of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972 and on October 23, 1978 (including the State in relation to which Japan is to apply the Convention pursuant to the provision of Article 34 (2) of the said Convention; hereinafter referred to as "Member States") and if the said State provides protection for the plant genus or species to which the person's applied variety belongs (excluding the case prescribed in the preceding item).

(iii) when the State to which the person belongs provides Japanese nationals with the protection of varieties under the same conditions as for its own nationals (including a State which provides such protection for Japanese nationals under the condition that Japan allows enjoyment of the breeder's right and other rights related to the breeder's right for the nationals of that State) and if the said State provides protection for the plant genus or species to which the person's applied variety belongs (excluding the cases prescribed in the preceding two items).

(Right of Priority)

Article 11.

(1) Any person listed in either of the following items may, if the conditions prescribed in the items are met, claim a right of priority at the time of application, pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(i) a person who has filed an equivalent application or applications for variety registration in a Contracting Party, an Intergovernmental Organization or a Member State (hereinafter referred to as "application in a Contracting Party") or his/her successor (the person or his/her successor shall be limited to a Japanese national, a person belonging to a Contracting Party etc. or Member States, or a person having a domicile or residence (in the case of a juridical person, its registered office) in Japan, a Contracting Party etc. or a Member State): when the application for variety registration, on the variety pertaining to the said application in a Contracting Party, is filed within one year from the day following the date of filing of the first application in a Contracting Party (hereinafter referred to as the "date of application in a Contracting Party"); or

(ii) a person who has filed an equivalent application for variety registration in a State prescribed in item 3 of Article 10 which allows a Japanese national to claim a right of priority under the same conditions as Japan does (excluding Contracting Party and Member State; hereinafter referred to as a "Designated State") or his/her successor (the person or his/her successor shall be limited to a Japanese national or a person belonging to the Designated State): when the application for variety registration, on the variety pertaining to the said application in a Designated State, is filed within one year from the day following the date of the filing of the first application in a Designated State (hereinafter referred to as the "date of application in a Designated State").

(2) Where the applicant claims a right of priority pursuant to the provisions of paragraph (1) of this Article, any application for variety registration, publication, such acts as transfer or other acts made in relation to a variety which is identical to or not clearly distinguishable from the applied variety on the basis of the characteristics, within a period from the date of application in a Contracting Party or the date of application in a Designated State to the date of the application for variety registration, shall not constitute a ground for preventing the said variety from registration.

(Amendment of Application for Variety Registration)

Article 12.

(1) The Minister for Agriculture, Forestry and Fisheries may order the application for variety registration to be amended, fixing an adequate time limit, in the following cases;

(i) the application for variety registration has not complied with the formal requirements specified in this Act or in orders or ordinances pursuant to this Act; or

(ii) the applicant does not pay the application fee that should be paid pursuant to the provisions of paragraph (1) of Article 6.

(2) The Minister for Agriculture, Forestry and Fisheries may dismiss the application for variety registration, when the person who has been ordered to amend the application for variety registration pursuant to the provisions of paragraph (1) of this Article does not amend it within the time limit fixed pursuant to the provision of the said paragraph.

Section 2. Publication of Application

(Publication of Application)

Article 13.

(1) When an application for variety registration is received (or when a amended application for variety registration is received if, pursuant to the provision of paragraph (1) of Article 12, amendment of the application for variety registration has been ordered), the Minister for Agriculture, Forestry and Fisheries shall publish the application for variety registration without delay by publicly noticing the following matters:

(i) the application number and date of the application for variety registration;

(ii) the name and the domicile or residence of the applicant;

(iii) the genus or species of the agricultural, forestry or aquatic plant to which the applied variety belongs;

(iv) the denomination of the applied variety;

(v) the date of the publication of the application; and

(vi) other necessary matters in addition to those listed in the preceding items.

(2) When the application for variety registration is surrendered, withdrawn or dismissed after the publication of the application, or when the application for variety registration is rejected, the Minister for Agriculture, Forestry and Fisheries shall publicly notice that effect.

(Effects etc. of Publication of Application)

Article 14

(1) When the applicant for a variety registration has, after publication of his/her application, and having given notification in a written statement setting forth the particularities of the applied variety, he may claim, against a person who exploited in the course of trade between the time of the notification and the registration, that applied variety, a variety which is, on the basis of its

characteristics, not clearly distinguishable from that applied variety, or a variety to which the provisions of each item of Article 20 paragraph (2) would apply if that said applied variety would have been registered, compensation equivalent to the amount of money which the applicant may receive if that applied variety were registered. Even in the absence of the notification, this provision shall apply to a person who exploited in the course of trade the applied variety (including a variety which, on the basis of its characteristics, is not clearly distinguishable from the said applied variety or a variety to which the provision of each item of Article 20 paragraph (2)) before its registration, if he had known that the variety which he exploited was the applied variety pertaining to the publication of the application.

(2) The right to claim compensation prescribed in paragraph (1) of this Article can be exercised only after the registration of the variety.

(3) The exercise of the right to claim compensation prescribed in paragraph (1) of this Article shall not preclude the exercise of the breeder's right.

(4) When the application for variety registration has been surrendered, withdrawn or dismissed after the publication of the application, or when the application for variety registration has been rejected, or when the variety registration is canceled pursuant to the provisions of either item 1 or 4 of Article 42 paragraph (1), or when a decision to cancel the variety registration has become final and conclusive, which upholds the ground for an objection to the variety registration pursuant to the Administrative Appeal Act (Act No. 160 of 1962), or when a judgment to cancel or to confirm nullity of the variety registration becomes final and conclusive, the right to claim compensation under paragraph (1) of this Article shall be deemed never to have existed.

(5) Article 36 of this Act as well as Articles 719 and 724 of the Civil Code (Act No.89 of 1896) shall apply mutatis mutandis to the exercise of the right to claim compensation as prescribed in paragraph (1) of this Article. In this case, when a person having the right to claim compensation has become aware, before the registration of the variety, of the fact that the applied variety pertaining to the application for the variety registration was exploited and could identify the person having exploited that variety, the term "the time when the victim or his/her legal representative became aware of such damage and perpetrator" in Article 724 of the said Code shall be deemed to be replaced with "the date of the variety registration."

Section 3. Examination

(Examination of Applied Variety)

Article 15.

(1) The Minister for Agriculture, Forestry and Fisheries may order the applicant to submit entire plants or parts of plants of the applied variety or other material necessary for examination of the applied variety.

(2) The Minister for Agriculture, Forestry and Fisheries shall cause its officers to conduct on-site inspections or the Independent Administrative Institution National Center for Seeds and Seedlings (hereinafter referred to as NCSS) to conduct growing tests for examination of the applied variety, However, this shall not apply to the cases where it is found unnecessary to do so for the examination of the applied variety.

(3) The Minister for Agriculture, Forestry and Fisheries may request relevant administrative organizations, educational establishments or other persons deemed to be appropriate, to conduct such on-site inspections as prescribed in paragraph (2) of this Article.

(4) Items to be checked, examination methods and other requirements for the conduct of the growing tests set forth in paragraph (2) of this Article shall be determined by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(5) The NCSS may request relevant administrative organizations, educational establishments or other persons deemed to be appropriate, to conduct such growing tests as set forth in paragraph (2) of this Article with the consent of the Minister for Agriculture, Forestry and Fisheries.

(6) The Minister for Agriculture, Forestry and Fisheries may, when it finds it necessary to ensure the appropriate conduct of the growing tests, issue orders to the NCSS in relation to the conduct of such growing tests as set forth in paragraph (2) of this Article.

(Order to Change Denomination)

Article 16.

(1) When the denomination of the applied variety falls under any of the items of Article 4 paragraph (1), the Minister for Agriculture, Forestry and Fisheries may order the applicant to change it to another denomination which does not fall under any of the items of the said paragraph, fixing an adequate time limit.

(2) When the denomination, after the publication of application, is changed pursuant to the provision of the preceding paragraph, the Minister for Agriculture, Forestry and Fisheries shall publicly notice information to that effect.

(Rejection of Application for Variety Registration)

Article 17.

(1) The Minister for Agriculture, Forestry and Fisheries shall reject the application for variety registration, in writing, when the applied variety falls under any of the following items:

(i) the applied variety may not be registered pursuant to the provisions of Article 3 paragraph (1), Article 4 paragraph (2), Article 5 paragraph (3), Article 9 paragraph (1) or Article 10; or

(ii) the applicant, without justifiable grounds, fails to comply with the order prescribed in Article 15 paragraph (1), refuses to receive an on-site inspection as prescribed in paragraph (2) of the said Article or fails to comply with the order prescribed in paragraph (1) of Article 16.

(2) When the application for variety registration is to be rejected pursuant to the provision of paragraph (1) of this Article, the Minister for Agriculture, Forestry and Fisheries shall notify the applicant of the reason for the rejection and give him an opportunity to submit a written opinion of his/her arguments, fixing an adequate time limit.

(Variety Registration)

Article 18

(1) The Minister for Agriculture, Forestry and Fisheries shall register the variety unless the application for variety registration should be rejected pursuant to the provision of paragraph (1) of Article 17.

(2) A variety shall be registered in the Registry of Plant Varieties in which the following matters shall be entered:

- (i) the registration number and the date of variety registration;
- (ii) the genus or species of the agricultural, forestry or aquatic plant to which the variety belongs;
- (iii) the denomination of the variety;
- (iv) the characteristics of the variety;
- (v) the duration of the breeder's right;
- (vi) the name and domicile or residence of the person who has the variety registration; and
- (vii) in addition to those matters listed in the preceding items, the matters prescribed by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(3) When a variety has been registered pursuant to the provisions of paragraph (1) of this Article, the Minister for Agriculture, Forestry and Fisheries shall notify the person who has the said variety registration accordingly, and publicly notice the matters prescribed by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

Section 4. Breeder's Right

(Grant and Duration of the Breeder's Right)

Article 19.

- (1) A breeder's right shall be granted by the registration of the variety.
- (2) Duration of a breeder's right shall be twenty-five years (thirty years in the case of varieties prescribed in Article 4 paragraph (2)) from the date of variety registration.

(Effects of the Breeder's Right)

Article 20.

- (1) The holder of a breeder's right shall have an exclusive right to exploit, in the course of trade, the variety which is registered (hereinafter referred to as "registered variety") and varieties which, on the basis of their characteristics, are not clearly distinguishable from the registered variety. However, when an exclusive exploitation right is granted in relation to the breeder's right, the exclusive right of the holder of the breeder's right does not extend to the areas where the holder of the exclusive exploitation right has an exclusive right to exploit these varieties.
- (2) The holder of the breeder's right for a registered variety shall have exclusively the same right as the right which, if varieties related to the registered variety in ways described in the following items are registered, the breeders of the aforementioned related varieties will have. In this case, the provisions of the proviso of paragraph (1) of this Article shall be applied mutatis mutandis.
 - (i) varieties which are bred from a registered variety by changing some of the latter's characteristics while retaining the essential characteristics of the latter by selection of a variation or variations, backcrossing, transformation by genetic engineering or other methods specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries and which are clearly distinguishable from the initial registered variety on the basis of the characteristics; or
 - (ii) varieties whose production requires the repeated use of the registered variety.

(3) When a registered variety is bred from a variety other than the said registered variety by changing some of the latter's characteristics while retaining the essential characteristics of the latter by the methods pursuant to the Ordinance of the Ministry of Agriculture, Forestry and Fisheries prescribed in item 1 of paragraph (2) of this Article, paragraph (2) of this Article and paragraph (2) of Article 21 shall be applied by changing the words "the following items" in paragraph (2) of this Article to "item 2", and by further changing the words "each item of paragraph (2) of Article 20" to "item 2 of paragraph (2) of Article 20."

(Limitation of the effects of the Breeder's Right)

Article 21.

(1) The effects of a breeder's right shall not extend to the following acts:

(i) use of the variety for the purpose of breeding new varieties and for other experimental and research purposes;

(ii) production of seeds and seedlings of the registered variety, by a person who has a patent right for the process of breeding the registered variety (including a variety which is, on the basis of its characteristics not clearly distinguishable from the registered variety; hereinafter the same shall apply in this paragraph) or a person who has been granted an exclusive license or non-exclusive license to use the said patent, by means of the process pertaining to the said patent, or conditioning, offering for transfer, transferring, exporting, importing or stocking for these purposes, of the said seeds and seedlings;

(iii) production of seeds and seedlings of the registered variety after the extinction of the patent right set forth in item (ii) of this paragraph, by means of the process pertaining to the said patent, or conditioning, offering for transfer, transferring, exporting, importing or stocking for these purposes, of the said seeds and seedlings; or

(iv) production, offering for transfer or lease, transferring, leasing, exporting, importing or stocking for these purposes, of the harvested material obtained from the seeds and seedlings set forth in items (ii) and (iii) of this paragraph.

(v) production, offering for transfer or lease, transferring, leasing, exporting, importing or stocking for these purposes, of the processed products pertaining to the harvested material set forth in item (iv) of this paragraph.

(2) Where farmers as prescribed by the Cabinet Order obtain the seeds and seedlings of a registered variety, a variety which, on the basis of the characteristics, is not clearly distinguishable from the registered variety, or varieties listed in each item of paragraph (2) of Article 20 pertaining to the registered variety (hereinafter collectively referred to as "registered variety etc.") which have been transferred by the holder of the breeder's right, the holder of an exclusive exploitation right or the holder of a non-exclusive exploitation right, gain harvested material by using the said seeds and seedlings, and further use the said harvested material as seeds and seedlings for the next production cycle on their own holdings, the effects of the breeder's right shall not extend to the seeds and seedlings used for the next production cycle, the harvested material obtained from them, and processed products pertaining to the harvested material, unless otherwise prescribed by contract.

(3) The provision of paragraph (2) of this Article shall not be applied to the use of seeds and seedlings of a variety, which belongs to one of the genera or species designated by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries as being propagated vegetatively.

(4) When seeds and seedlings, harvested material or processed products of a registered variety etc. are transferred by the holder of the breeder's right, the holder of an exclusive exploitation right or the holder of a non-exclusive exploitation right, or as the result of the acts listed in any of the items of

paragraph (1) of this Article, the effects of the breeder's right for the said registered variety shall not extend to the exploitation of the transferred seeds and seedlings, harvested material or processed products. However, this provision shall not apply to the production of seeds and seedlings of the said registered variety etc., nor to the exportation of seeds and seedlings to a State which does not protect varieties of the plant genus or species to which the said registered variety belongs nor to the exportation of harvested material to the said State for a purpose other than final consumption.

(Obligation of Using a Denomination, etc.)

Article 22.

(1) When seeds and seedlings of a registered variety (including a variety whose registration has already expired: hereinafter the same shall apply in this Article) are offered for transfer or are transferred in the course of trade, the denomination of the said registered variety (where the denomination has been changed pursuant to the provisions of Article 41 paragraph (2), the denomination as changed) shall be used.

(2) When seeds and seedlings of a variety being other than a registered variety but belonging to the same genus or species of the agricultural, forestry or aquatic plants to which the aforementioned registered variety belongs or belonging to the genus and species of agricultural, forestry and aquatic plants specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries to be similar to the genus or species to which the aforementioned registered variety belongs, are offered for transfer or are transferred in the course of trade, the denomination of the said registered variety shall not be used.

(Co-owners of a Breeder's Right)

Article 23.

(1) Each of the co-owners of a breeder's right may neither transfer his/her share nor grant a pledge upon it without the consent of the other co-owners.

(2) Each of the co-owners of a breeder's right may, unless otherwise prescribed by contract, exploit the registered variety etc. without the consent of the other co-owners.

(3) Each of the co-owners of a breeder's right may grant neither an exclusive exploitation right nor a non-exclusive exploitation right on the breeder's right without the consent of the other co-owners.

(Extinction of a Breeder's Right due to the Dissolution of a Juridical person, etc.)

Article 24.

A breeder's right shall be extinguished in the following cases:

(i) a juridical person holding a breeder's right dissolves, and the breeder's right should vest in the national treasury pursuant to the provisions of Article 72 paragraph (3) of the Civil Code or equivalent Acts; or

(ii) a natural person holding a breeder's right dies, and the breeder's right should vest in the national treasury pursuant to the provisions of Art.959 of the Civil Code.

(Exclusive Exploitation Right)

Article 25.

- (1) The holder of a breeder's right may grant an exclusive exploitation right on his/her breeder's right.
- (2) The holder of an exclusive exploitation right shall have an exclusive right to exploit the registered variety etc. in the course of trade to the extent laid down in act of establishment.
- (3) An exclusive exploitation right may be transferred only in the following cases; together with the business in which the variety is exploited, with the consent of the holder of the breeder's right, or by inheritance or other general successions.
- (4) The holder of an exclusive exploitation right may grant a pledge or a non-exclusive exploitation right on the exclusive exploitation right only with the consent of the holder of the breeder's right.
- (5) The provisions set forth in Art.23 shall apply mutatis mutandis to exclusive exploitation rights.

(Non-exclusive Exploitation Right)

Article 26.

- (1) The holder of a breeder's right may grant a non-exclusive exploitation right on his/her breeder's right.
- (2) The holder of a non-exclusive exploitation right shall have the right to exploit the registered variety etc. in the course of trade to the extent pursuant to the provision of this Act or laid down by act of establishment.

(Non-exclusive Exploitation Right by virtue of Prior Breeding)

Article 27.

A person who has bred, earlier than the breeder of a registered variety, a variety that, on the basis of the characteristics, is identical with or not clearly distinguishable from the registered variety shall have a non-exclusive exploitation right on the breeder's right pertaining to the said registered variety.

(Award)

Article 28.

- (1) When a registered variety etc. has not been adequately exploited continuously for two years or more in Japan or the exploitation of a registered variety etc. is especially necessary for the reason of public interest, a person who intends to exploit the said registered variety etc. in the course of trade may request the holder of the breeder's right or the holder of an exclusive exploitation right on the said registered variety to hold consultations concerning the grant of a non-exclusive exploitation right thereon.
- (2) When the consultations set forth in paragraph (1) of this Article have not reached an agreement or if the consultation is unable to take place, the person prescribed in the said paragraph may apply the Minister for Agriculture, Forestry and Fisheries for an award.
- (3) When an application for award prescribed in paragraph (2) of this Article has been made, the Minister for Agriculture, Forestry and Fisheries shall notify in writing the holder of the breeder's right, the holder of an exclusive exploitation right, or other persons who have any right registered in

relation to the registered variety pertaining to the said application accordingly and shall give them an opportunity to state their opinion, fixing an adequate time limit.

(4) Unless it is especially necessary for the reason of public interest to exploit a registered variety etc., the Minister for Agriculture, Forestry and Fisheries shall not render an award ordering a non-exclusive exploitation right to be granted where there is any justifiable ground why the registered variety etc. has not been exploited adequately.

(5) Before rendering an award set forth in paragraph (2) of this Article, the Minister for Agriculture, Forestry and Fisheries shall hear the opinions of the Agricultural Materials Council.

(6) An award ordering a non-exclusive exploitation right to be granted shall set forth the scope of the non-exclusive exploitation right as well as the consideration for the right and the method of payment.

(7) When an award is taken in accordance with paragraph (2) of this Article, the Minister for Agriculture, Forestry and Fisheries shall notify the parties and other persons who have rights registered in relation to the registered variety, accordingly.

(8) When the award provided in paragraph (6) of this Article has been notified to the parties pursuant to the provisions of paragraph (7) of this Article, an agreement shall be deemed to have been reached between the parties concerned as provided in the award.

(Transfer, etc. of a Non-exclusive Exploitation Right)

Article 29.

(1) A non-exclusive exploitation right, with the exception of such as is granted by award set forth in paragraph (2) of Article 28, may be transferred together with the business in which the variety is exploited, only with the consent of the holder of the breeder's right (in the case of a non-exclusive exploitation right on an exclusive exploitation right, the holder of the breeder's right and the holder of that exclusive exploitation right; this proviso shall apply also in paragraph (2) of this Article), or inheritance or other general succession.

(2) The holder of a non-exclusive exploitation right, with the exception of such as is granted by award set forth in paragraph (2) of Article 28, may grant a pledge on that non-exclusive exploitation right only with the consent of the holder of the breeder's right.

(3) A non-exclusive exploitation right which is granted by award set forth in paragraph (2) of Article 28 may be transferred only together with the business in which the variety is exploited.

(4) Paragraphs (1) and (2) of Article 23 shall apply mutatis mutandis to non-exclusive exploitation rights.

(Pledge)

Article 30.

(1) When a breeder's right or an exclusive or non-exclusive exploitation right is the purpose of a pledge, the pledgee may not exploit the said registered variety etc. unless otherwise prescribed by contract.

(2) A pledge on a breeder's right or on an exclusive or non-exclusive exploitation right may be exercised against the remuneration received as consideration for the breeder's right or the exclusive or non-exclusive exploitation right or against money or goods that the holder of the breeder's right or the exclusive exploitation right would be entitled to receive for the exploitation of the registered variety

etc. However, an attachment order shall be obtained prior to the payment or delivery of the remuneration money or goods.

(Surrender of the Breeder's Right, etc.)

Article 31.

(1) When there is a holder of an exclusive exploitation right, a pledgee or a holder of non-exclusive exploitation right as referred to in Article 8 paragraph (3), Article 25 paragraph (4) or Article 26 paragraph (1) in relation to a breeder's right, the holder of the breeder's right may surrender his/her breeder's right only with the individual consent of such persons.

(2) When there is a pledgee or a holder of a non-exclusive exploitation right referred to in Article 25 paragraph (4) in relation to an exclusive exploitation right, the holder of the exclusive exploitation right may surrender his/her exclusive exploitation right only with the individual consent of such persons.

(3) When there is a pledgee in relation to a non-exclusive exploitation right, the holder of the non-exclusive exploitation right may surrender his/her non-exclusive exploitation right only with the pledgee's consent.

(Effects of Registration)

Article 32.

(1) The following matters shall have no legal effect unless they are registered:

(i) the transfer (other than by inheritance or other general succession), extinction by surrender, or restrictions on the disposal, of a breeder's right;

(ii) the grant, transfer (other than by inheritance or other general succession), modification or extinction (except as a result of a merger or extinction of the breeder's right), or restriction on the disposal, of an exclusive exploitation right, or

(iii) the grant, transfer (other than by inheritance or other general succession), modification or extinction (except as a result of a merger or extinction of a secured credit), or restriction on the disposal, of a pledge on a breeder's right or an exclusive exploitation right.

(2) Inheritance or other general succession referred to in each item of paragraph (1) of this Article shall be notified to the Minister for Agriculture, Forestry and Fisheries without delay, pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(3) Once a non-exclusive exploitation right has been registered, it shall also be effective against the holder of the breeder's right or the holder of the exclusive exploitation right, or against anyone subsequently being granted an exclusive exploitation right on the breeder's right.

(4) A non-exclusive exploitation right set forth in Article 8 paragraph (3) or Article 27 shall have the same effects as prescribed in paragraph (3) of this Article without registration.

(5) The transfer, modification, extinction or restriction on the disposal of a non-exclusive exploitation right or the grant, transfer, modification, extinction or restriction on the disposal of a pledge on a non-exclusive exploitation right may not set up against any third party unless it is registered.

Section 5. Infringement

(Injunction)

Article 33.

(1) The holder of a breeder's right or the holder of an exclusive exploitation right may request a person who is infringing or is likely to infringe his/her breeder's right or exclusive exploitation right to discontinue or refrain from such infringement.

(2) The holder of a breeder's right or the holder of an exclusive exploitation right who is making the requisition prescribed in paragraph (1) of this Article may demand the destruction of the seeds and seedlings, the harvested material or the processed products on which the act of infringement was committed, or the objects used for the act of infringement, or other measures necessary to prevent the infringement.

(Presumption, etc. of Amount of Damages)

Article 34.

(1) Where the holder of a breeder's right or of an exclusive exploitation right claims, against a person who has intentionally or negligently infringed his/her breeder's right or exclusive exploitation right, compensation for damages caused to him by the infringement, any profits gained by the infringer through the infringement shall be presumed to be the amount of damages suffered by the holder of the breeder's right or the holder of the exclusive exploitation right

(2) The holder of a breeder's right or of an exclusive exploitation right may claim, against a person who has intentionally or negligently infringed his/her breeder's right or exclusive exploitation right, the amount of money which he would be entitled to receive from the exploitation of the registered variety etc., as the amount of damages suffered by him.

(3) The provision of paragraph (2) of this Article shall not preclude a claim for damages exceeding the amount prescribed in the said paragraph. In such cases, when the infringer of the breeder's right or the exclusive exploitation right had neither intent nor gross negligence, the court may take this into consideration when awarding damages.

(Presumption of Negligence)

Article 35.

A person who has infringed a breeder's right or an exclusive exploitation right of another person shall be presumed to have been negligent with respect to the act of infringement.

(Submission of Documents)

Article 36.

In litigation pertaining to the infringement of a breeder's right or an exclusive exploitation right, the court may, upon the request of a party, order the other party to submit documents necessary for the assessment of the damages caused by the said infringement. However, this provision shall not apply when the person possessing the documents has justifiable grounds for refusing their submission.

(Measures for Recovery of Reputation)

Article 37.

Upon the request of the holder of a breeder's right or of an exclusive exploitation right, the court may, in lieu of the compensation for damages or in addition thereto, order the person who has injured the business reputation of the holder of the breeder's right or of the exclusive exploitation right by infringing the breeder's right or the exclusive exploitation right intentionally or negligently, to take the necessary measures for the recovery of the business reputation.

Section 6. Maintenance and Cancellation of a Variety Registration

(Registration Fee)

Article 38.

(1) The holder of a breeder's right shall pay a registration fee, which shall not exceed 36,000 yen for each registration and is specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries, for each year until the expiration of the duration as provided for in Article 19 paragraph (2).

(2) The provision of paragraph (1) of this Article shall not be applied when the holder of a breeder's right is the national government.

(3) Notwithstanding the provision of paragraph (1) of this Article, where the national government and another person jointly own a breeder's right and they have an agreement on the share of the breeder's right, such other person shall pay the registration fee in an amount calculated by multiplying the amount of the registration fee specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries set forth in paragraph (1) of this Article by the percentage of the share of such other person.

(4) When there is a fraction less than 10 yen in the amount of the registration fee as calculated pursuant to the provision of paragraph (3) of this Article, such a fraction shall be discarded.

(5) The registration fee for the first year prescribed in paragraph (1) of this Article shall be paid within 30 days from the date of publicly notice in accordance with the provisions of Article 18 paragraph (3).

(6) The registration fee for the second year and subsequent years prescribed in paragraph (1) of this Article shall be paid in the previous year or earlier.

(7) When the registration fee is unable to be paid within the time limit prescribed in paragraph (6) of this Article, the fee may be paid within 6 months from the expiration of the time limit.

(8) The holder of a breeder's right who pays the registration fee pursuant to the provision of paragraph (7) of this Article shall pay, in addition to the registration fee to be paid under the provision of paragraph (1) of this Article, a surcharge of the same amount as the registration fee.

(Payment of the Registration Fee by Interested Persons)

Article 39.

(1) An interested person may pay the registration fee even against the will of the holder of the breeder's right.

(2) The interested person who has paid the registration fee pursuant to the provision of paragraph (1) of this Article may claim reimbursement of the expense to the extent that the holder of the breeder's right is actually making a profit.

(Examination of a Registered Variety)

Article 40.

(1) The Minister for Agriculture, Forestry and Fisheries may order the holder of a breeder's right or of an exclusive exploitation right to submit entire plants or parts of plants of the registered variety and other material, when it is found necessary to examine whether the characteristics of the registered variety are maintained.

(2) The Minister for Agriculture, Forestry and Fisheries shall cause its officers to conduct on-site inspections or cause the NCSS to conduct growing tests in the case prescribed in paragraph (1) of this Article.

(3) The provisions of paragraphs (3) to (6) inclusive of Article 15 shall be applied mutatis mutandis to the on-site inspections or growing tests set forth in paragraph (2) of this Article.

(Change of Denomination of a Registered Variety)

Article 41.

(1) When it is found that the denomination of a registered variety falls under any of the provisions of items 2 to 4 inclusive of Article 4 paragraph (1), the Minister for Agriculture, Forestry and Fisheries may order the holder of the breeder's right to submit another denomination of the registered variety which does not fall under any of the items of the said paragraph, by fixing an adequate time limit.

(2) When a denomination falling under none of the items of Article 4 paragraph (1) has been submitted pursuant to the provisions of paragraph (1) of this Article, the Minister for Agriculture, Forestry and Fisheries shall change the denomination of the said registered variety to the submitted denomination by entering it in the Registry of Plant Varieties.

(3) When the Minister for Agriculture, Forestry and Fisheries changes the denomination of a registered variety pursuant to the provision of paragraph (2) of this Article, he shall notify the holder of the breeder's right of the said registered variety and publicly notice information to that effect.

(Cancellation of the Variety Registration)

Article 42.

(1) The Minister for Agriculture, Forestry and Fisheries shall cancel a variety registration in any one of the following cases:

(i) when it has turned out that the variety was registered in violation of the provisions of Article 3 paragraph (1), Article 4 paragraph (2), Article 5 paragraph (3), Article 9 paragraph (1) or Article 10;

(ii) when it has turned out that, after the variety registration, the registered variety no longer satisfies the requirements listed in item 2 or 3 of Article 3 paragraph (1);

(iii) when, after the variety registration, the holder of the breeder's right has become a person who may not enjoy a breeder's right pursuant to the provisions of Article 10;

(iv) when the registration fee for the first year is not paid within the period prescribed in Article 38 paragraph (5);

(v) when the registration fee and the surcharge are not paid within the period prescribed in Article 38 paragraph (7);

(vi) when the person who was ordered to submit material pursuant to the provisions of Article 40 paragraph (1) fails to comply with the order without justifiable grounds; or

(vii) when the person who was ordered to submit another denomination of the registered variety pursuant to the provisions of paragraph (1) of this Article fails to comply with the order without justifiable grounds.

(2) A hearing pertaining to the cancellation of a variety registration in accordance with any of the provisions of items 1, 2, 3, 6, or 7 of paragraph (1) of this Article shall be held upon giving sufficient notice before the hearing, to the holder of an exclusive exploitation right or any other right registered in relation to the breeder's right pertaining to the said variety registration.

(3) When the person prescribed in paragraph (2) of this Article requests to participate in the said hearing pursuant to the provisions of Article 17 paragraph (1) of the Administrative Procedure Act (Act No. 88 of 1993), the chairperson of the hearing set forth in paragraph (2) of this Article shall permit him to do so.

(4) When the variety registration has been cancelled pursuant to the provisions of paragraph (1) of this Article, the breeder's right shall be extinguished at the time of cancellation. However, in the case of any of the following items, the breeder's right shall be deemed to have been extinguished retroactively from the time specified in each of the following said items.

(i) the case falling under item 1 or 4 of paragraph (1) of this Article: the time of variety registration;

(ii) the case falling under item 3 of paragraph (1) of this Article: the time when the said item became applicable; or

(iii) the case falling under item 5 of paragraph (1) of this Article: the time when the time provided in Article 38 paragraph (6) has passed.

(5) When the variety registration has been cancelled pursuant to the provisions of paragraph (1) of this Article, the Minister for Agriculture, Forestry and Fisheries shall notify the holder of the breeder's right pertaining to the said variety registration and publicly notice information to that effect.

(6) With respect to the cancellation of a variety registration under the provisions of item 4 or 5 of paragraph (1), the provisions of Chapter 3 (excluding Articles 12 and 14) of the Administrative Procedure Act shall not be applied.

Section 7. Miscellaneous Provisions

(Jurisdiction for a Overseas Resident)

Article 43.

With respect to the breeder's right or any other right relating to a breeder's right of a person who has neither domicile nor residence (nor registered office, in the case of a juridical person) in Japan, the location of the Ministry of Agriculture, Forestry and Fisheries shall be deemed to be the location of property set forth in Article 5 paragraph (4) of the Code of Civil Procedure (Act No. 109 of 1996).

(Special Provisions for filing of an Objection to a Variety Registration)

Article 44.

(1) The provision of Article 45 of the Administrative Appeal Act shall not be applied to filing of an objection to a variety registration and, notwithstanding the provision of Article 48 of the said Act, the provision of Article 14 paragraph (3) of the said Act shall not be applied.

(2) The hearing of an objection to a variety registration pursuant to the Administrative Appeal Act shall be held upon giving sufficient notice before the hearing, to the holder of the breeder's right or of the exclusive exploitation right or other persons who have rights registered in relation to the said variety registration.

(3) When a person who received a notice pursuant to the provisions of paragraph (2) of this Article requests to participate in the said filing of an objection, the Minister for Agriculture, Forestry and Fisheries shall permit him to do so.

(Registration, etc. in the Registry of Plant Varieties)

Article 45.

(1) The following matters shall be registered in the Registry of Plant Varieties kept in the Ministry of Agriculture, Forestry and Fisheries:

(i) the grant, transfer, extinction or restriction on the disposal, of a breeder's right;

(ii) the grant, preservation, transfer, modification, extinction or restriction on the disposal, of an exclusive exploitation right or of a non-exclusive exploitation right; or

(iii) the grant, transfer, modification, extinction or restriction on disposal, of a pledge on a breeder's right, on an exclusive exploitation right or on a non-exclusive exploitation right.

(2) In addition to those matters listed in this Act, any matter necessary for variety registration and the Registry of Plant Varieties shall be provided by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(Request for Certification, etc.)

Article 46.

(1) Anyone may request any of the following from the Minister for Agriculture, Forestry and Fisheries, pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries:

- (i) certification relating to an application for variety registration or a registered variety;
 - (ii) issue of an transcript or extract of the Registry of Plant Varieties or
 - (iii) inspection or copying of the Registry of Plant Varieties or an application filed set forth in Article 5 paragraph (1), photograph (s) or other material attached thereto (excluding those which the Minister for Agriculture, Forestry and Fisheries considers necessary to be kept confidential).
- (2) Rules of Act Concerning Access to Information Held by Administrative Organs (Act No. 42 of 1999) shall not be applied to the Registry of Plant Varieties, to applications as referred to in Article 5 paragraph (1), nor to photographs or related material attached thereto (referred to in the next paragraph as "the Registry of Plant Varieties, etc.")
- (3) With regard to data entered into the Registry of Plant Varieties etc. pertaining to information on individual natural persons possessed by administrative organs (as prescribed in Article 2 paragraph (3) of the Act on the Protection of Information on Individual Natural Persons Possessed by Administrative Organs (Act No. 58 of 2003)), the provisions of Chapter 4 of the said Act shall not be applied.

(Fees)

Article 47.

- (1) The person filing a request pursuant to the provisions of paragraph (1) of Article 46 shall pay the fee corresponding to an amount to be prescribed by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries in consideration of the actual costs.
- (2) The provisions of paragraph (1) of this Article shall not be applied when the person who should pay the fee pursuant to the provision of the said paragraph is the national government.

(Effects of Convention)

Article 48.

When there are specific provisions relating to the protection of new plant varieties in any convention, such provisions shall prevail.

Chapter 3. Designated Seeds and Seedlings

(Notification by Seed and Seedling Dealers)

Article 49.

- (1) A seed and seedling dealer shall notify the Minister for Agriculture, Forestry and Fisheries of the following matters, pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries. The provision of this Article, however, shall not apply to those seed and seedling dealers specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.
- (i) the name and the domicile of the dealer;
 - (ii) the kinds of designated seeds and seedlings which the dealer handles; and
 - (iii) other matters specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(2) The same shall apply whenever any change is made in the matters set forth in paragraph (1) of this Article.

(3) The notification referred to in paragraphs (1) and (2) of this Article shall be due, where trading has been newly commenced, within two weeks after the commencement, and whenever any change is made in the matters referred to in paragraph (1) of this Article, within two weeks after such change.

(Labeling of Designated Seeds and Seedlings)

Article 50.

(1) Designated seeds and seedlings shall not be sold unless the package is furnished with a label containing the following matters or with a voucher showing the said matters have been attached. This provision, however, shall not apply where the matters listed in items 1 to 4 inclusive and item 6 of this Article pertaining to designated seeds and seedlings are shown by a notice or other readily visible means, or where designated seeds and seedlings are sold by a person other than seed and seedling dealers.

(i) the name and the domicile of the seed and seedling dealer providing the matters;

(ii) the type and the variety name (in the case of grafted saplings, the types and the variety names of scion and rootstock);

(iii) the place of production;

(iv) in the case of seed, the date of production or the time limit of validity, and the germination percentage;

(v) the quantity; and

(vi) any other matters specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(2) The matters listed in item 3 of paragraph (1) of this Article shall be shown, in the case of a domestic product, by stating the prefecture in which the said place of the production is located, and, in the case of a foreign product, by stating the country in which the said place of the production is located.

(3) In addition to paragraphs (1) and (2) of this Article, with regard to certain designated seeds and seedlings for which labeling is deemed necessary for users in the identification of the location suitable for growing, usage and other characteristics relevant to growing or exploitation and in the selection of varieties suitable to their natural and economic conditions, the Minister for Agriculture, Forestry and Fisheries shall determine and publish the matters to be shown for identification and any other standard relating to the said labeling, with which the seed and seedling dealer should comply.

(4) The Minister for Agriculture, Forestry and Fisheries may, when a seed and seedling dealer fails to comply with the standards determined pursuant to the provisions of paragraph (3) of this Article, issue to the seed and seedling dealer a recommendation concerning the standards to be complied with.

(Order relating to Designated Seeds and Seedlings)

Article 51.

(1) The Minister for Agriculture, Forestry and Fisheries may order any seed and seedling dealer who has violated the provisions of paragraphs (1) and (2) of Article 50 to indicate the matters listed in each item of paragraph (1) of the said Article or to change the contents of the indicated matters, or may prohibit the sale of the designated seeds and seedlings pertaining to the act of violation.

(2) The Minister for Agriculture, Forestry and Fisheries may, when any seed and seedling dealer fails to comply with the recommendation issued pursuant to the provisions of paragraph (4) of Article 50, order that the seed and seedling dealer comply with the standards set out under paragraph (3) of the said Article, fixing a time limit.

(Standards relating to the Production, etc. of Designated Seeds and Seedlings)

Article 52.

(1) The Minister for Agriculture, Forestry and Fisheries shall, when it is found particularly necessary to secure the distribution of designated seeds and seedlings of good quality, determine and publish standards relating to the production, conditioning, stocking or packaging, of the said designated seeds and seedlings, that should be complied with by persons producing the said seeds and seedlings in the course of trade and seed and seedling dealers.

(2) The Minister for Agriculture, Forestry and Fisheries may, when either a person producing the designated seeds and seedlings in the course of trade or a seed and seedling dealer fails to comply with the standards pursuant to the provisions of paragraph (1) of this Article, issue to such a person a recommendation to the effect that the standards be complied with.

(3) The Minister for Agriculture, Forestry and Fisheries may, when any person producing the designated seeds and seedlings in the course of trade or any seed and seedling dealer fails to comply with the recommendation set forth in paragraph (2) of this Article, publish the fact of non-compliance.

(Collection of Designated Seeds and Seedlings)

Article 53.

(1) The Minister for Agriculture, Forestry and Fisheries may cause his/her officers to collect from seed and seedling dealers such quantities of designated seeds and seedlings as are necessary for inspection. However, compensation equivalent to the market value shall be paid.

(2) In the case referred to in paragraph (1) of this Article, such officers shall, when a seed and seedling dealer so requests, show a certificate to identify his/her official status.

(Collection of Designated Seeds and Seedlings made by the NCSS or the National Livestock Breeding Center)

Article 53-2.

(1) The Minister for Agriculture, Forestry and Fisheries may, when he finds it necessary, cause the NCSS or the Independent Administrative Institution National Livestock Breeding Center (hereinafter referred to as "NLBC") in accordance with the classes, specified by the Ordinance of the Ministry of Agriculture, Forestry and Fisheries to collect from seed and seedling dealers such quantities of designated seeds and seedlings as are necessary for inspection. However, compensation equivalent to the market value shall be paid.

(2) The Minister for Agriculture, Forestry and Fisheries shall issue an instruction to the NCSS or the NLBC to designate the date, place and other relevant items of information if the collection pursuant to the provisions of paragraph (1) of this Article is carried out by the NCSS or the NLBC.

(3) The NCSS or the NLBC, having conducted the collection referred to in paragraph (1) of this Article in accordance with an instruction set forth in paragraph (2) of this Article, shall report the result of the inspection to the Minister for Agriculture, Forestry and Fisheries according to the rules prescribed in the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

(4) In the case referred to in paragraph (1) of this Article, officials of the NCSS or the NLBC performing the collection pursuant to the provisions of the said paragraph shall show a certificate to identify his/her status if seed and seedling dealers so require.

(Orders to the NCSS or the NLBC)

Article 53-3.

The Minister for Agriculture, Forestry and Fisheries may, when he finds it necessary to ensure an appropriate implementation of the collection referred to in paragraph (1) of Article 52, issue orders to the NCSS or the NLBC in relation to the collection.

(Collection of Reports, etc.)

Article 54.

The Minister for Agriculture, Forestry and Fisheries may, within such limits as are necessary for the enforcement of this Act, order seed and seedling dealers to submit reports relating to their operations or to submit books and other documents.

(Delegation of Authority to Prefectural Governors)

Article 55.

(1) Part of the authority of the Minister for Agriculture, Forestry and Fisheries under the provisions of Article 50 paragraph (4), Article 51, Article 52 paragraph (2) and (3), Article 53 and Article 54 may be delegated to Prefectural Governors, pursuant to the provisions of the Cabinet Order.

(2) Part of the authority of the Ministry for Agriculture, Forestry and Fisheries prescribed in this Chapter may be delegated to the Regional Agricultural Administration Offices, pursuant to the provisions of the Ordinance of the Ministry of Agriculture, Forestry and Fisheries.

Chapter 4. Penal Provisions

Article 56.

Any person who has infringed a breeder's right or an exclusive exploitation right shall be punished by imprisonment with work for not more than three years or by a fine of not more than 3,000,000 yen.

Article 57.

Any person who has obtained a variety registration by means of a fraudulent act shall be punished by imprisonment with work for not more than one year or by a fine of not more than 1,000,000 yen.

Article 58.

Any person who falls under any of the following items shall be punished by a fine of not more than 500,000 yen.

(i) a person who has sold designated seeds and seedlings with false labelling concerning the matters to be shown pursuant to the provisions of paragraphs (1) and (2) of Article 50; or

(ii) a person who has sold designated seeds and seedlings in violation of the disposition laid down pursuant to the provisions of Article 51 paragraph (1) or (2).

Article 59.

Any person who falls under any of the following items shall be punished by a fine of not more than 300,000 yen.

(i) a person who failed to notify pursuant to the provisions of Article 49 or made false notification;

(ii) a person who, without justifiable grounds, has refused, obstructed or recused collection set forth under Article 53 paragraph (1) or Article 53-2 paragraph (1); or

(iii) a person who failed to submit a report or document specified pursuant to the provision of Article 54 or submitted a false report or document.

Article 60.

When a representative of a juridical person, or an agent, a employee or any other worker of a juridical person or individual has committed an act of violation falling under any of the following items with regard to the business of said juridical person or individual, not only the offender shall be punished but also said juridical person shall be punished by the fine prescribed in the following items or said individual shall be punished by the fine prescribed in any of these Articles.

(i) Article 56: fine of not more than 100,000,000 yen;

(ii) Articles 57, 58 or item 1 or 3 of Article 59: fine prescribed in any of these Articles.

Article 61.

If the NCSS or the NLBC violated the order prescribed in Article 15 paragraph (6) (including the cases when it is applied mutatis mutandis pursuant to Article 40 paragraph (3)) or Article 53-3, officers of the NCSS and the NLBC that conducted the violation shall be punished by an administrative penalty of a civil fine of not more than 200,000 yen.

Article 62.

Any person who violated the provisions of Article 22 shall be punished by a civil fine of not more than 100,000 yen.

Supplementary Provisions (Extract)**Supplementary Provisions (Extract from Act No.59 of June 17, 2005)****(Interim Measure for Processed Products)**

Article 2 No effect of a breeder's right shall extend to the processed products, prescribed in Article 2.4 of the Seeds and Seedlings Act (as revised by this Act, and hereinafter, the "New Act"), that were produced in or imported to Japan before the commencement of this Act.

(Interim Measure for the Duration of a Breeder's Right)

The provision of Article 19.2 of the New Act only applies to a breeder's right pertaining to any variety which is registered after the commencement of this Act; while the provisions then in force shall remain applicable to a breeder's right pertaining to any variety which was registered before the commencement of this Act.
