

Plant Variety Protection

[Q. 1] I would like to file an application for variety registration. What is the application procedure?

[A. 1] The applicant shall submit an application form for the new variety registration by bringing the completed Application Form directly to Korea Seed & Variety Service(KSVS) or mailing/e-mailing it to KSVS.

[Q. 2] Is Plant Variety Protection applicable for all plants?

[A. 2] All plant genera and species are entitled to filing an application for Variety Protection. The applicant, however, is requested to confirm first whether the plant to file an application falls under the target list of Korea Seed & Variety Service(KSVS) because Korea has 3 organizations in charge of application filing for variety protection.

Such a confirmation is possible by entering the common name (Korean) of the target plant or its botanical taxon (English) into 『The Organization Information in charge of Application Filing for Variety Registration』 located at the upper right of the KSVS home page.



[Q. 3] What are the requirements when foreign-bred varieties are to be filed for application in Korea?

[A. 3] A variety protection applicant shall submit the application filing form along with documents completing the following items. If an applicant of foreign-bred varieties is the person being overseas, that is, no-resident, the applicant should appoint an agent to conduct the application procedure, and hence, it is a must for the applicant to submit a document verifying the power of his/her representation.

- the name and address of the person filing an application for Variety Protection (in case that the applicant is a corporate body, its name and the location of its business office)
 - the name and address of the agent or the location of the agent's business office if an agent is appointed
 - the name and address of the breeder
 - the botanical and common name of the plant to which the applied variety is denominated
 - the name of the applied variety
 - the filing date
 - the item under the Paragraph 3 of Article 27 (to be completed only when the priority of an earlier application is claimed)
 - the technical description on the variety characteristics and the procedural description of its breeding history
 - photographs and seed samples of the applied variety
- The submission time and method shall be decided separately if the seed samples are seedlings.
- one copy of a receipt for the Payment of the Variety Protection Application Fee
 - a document describing the characteristics of the applied variety and its breeding process

[Q. 4] I plan to file an electronic application via 『Civil Affair Application System for Variety Management』 (품종관리 민원신청시스템). What is the guideline for user registration?

[A. 4] The user registration is completed when the applicant becomes a member by logging into 『The Civil Affair Application System for Variety Management』 (<https://www.seednet.go.kr>). In order to get a membership, the applicant is requested to select the category of the Authentication Certificate (individual or corporate body) and also to choose one affair category: either the applicant's (declarer's) or the agent's.

If the applicant (including the declarer and the agent) scans and attaches the image of his/her signet after user registration, the applicant can fill in the Application Form and the Declaration Form through the process of approving the applicant.

[Q. 5] Can the Form to file an application for variety protection be reviewed beforehand?

[A. 5] When the Form to file an application for variety protection is completed and submitted, the Form will be reviewed upon its reception and at the stage of Formality Examination, and hence, inadequate points can be corrected and supplemented. For inquiries regarding the completion of the Application Form before its reception, please visit the home page of Korea Seed & Variety Service or call the Variety Protection Counseling Center at Korea Seed & Variety Service.

[Q. 6] If a breeder is a foreigner, does the foreign breeder absolutely need an agent to file an application?

[A. 6] If a breeder is a foreigner and plans to take the registration procedure to file an application for variety protection without his/her address or no business office in Korea (who is to be referred as “No-Resident” thereafter), an agent (who has an address or a business office in Korea, and is to be referred as “The Variety Protection Manager” thereafter) should be appointed to protect the variety bred by the person being overseas.

In particular, on behalf of the No-Resident, the agent (The Variety Protection Manager) shall serve as a proxy in the lawsuit regarding the measures taken by The Administrative Authority according to the right conferred to the agent, and all other procedures pertaining to Variety Protection, Seed Industry Law and the Order based on the Seed Industry Law.

[Q. 7] As an agent, I am planning to complete the Form to file an application. Please let me know how to complete it.

[A. 7] After the user registration as an agent by logging into 『The Civil Affair Application System for Variety Management,』 you can complete the Electronic Application Form through the applicant (agent) approval process. However, you should attach the Letter of Attorney proving that you are the agent. In case of a foreign variety, the original copy of the Letter of Attorney and its translated copy are required to submit.

[Q. 8] What will become of the incomplete document submitted for filing an application?

[A. 8] The incomplete document submitted for filing an application needs supplementation. You shall be contacted by the person in charge at Korea Seed & Variety Service(KSVS) directly and are requested to submit additionally required documents.

[Q. 9] What should I do if I want to check the Application Form I had previously completed through 『The Civil Affair Application System for Variety Management』? Can I read only mine?

[A. 9] You can read the contents of the application form of a variety if its application filing is completed through 『The Civil Affair Application System for Variety Management』 at 『Civil Affair Application - Application Filing for Variety Protection - Application Form Received』 .

Only the Application Form completed by the logged-in user is allowed to read, and the application forms for variety not filed by electronic application are not looked up.

[Q. 10] Please let me know how to change the applicant' s name.

[A. 10] It can be done by writing and submitting the Attached Form No. 13, the Declaration of the Change in Name of the Applicant who files the application for variety protection, drawn up according to Phrase 3 of Article 23 of the Seed Industry Law and Article 26 of The Enforcement Regulations of the Seed Industry Law.

In addition, other required documents that should be submitted at the same time are: a document verifying the reason for the change of the applicant's name; an evidentiary document to prove the third party's permission · consent · approval if necessary; a certificate verifying the share for the right (limited to the case that there is an agreement in right sharing); and, in case of an agent, a certificate verifying the power of representation.

[Q. 11] How can I know that the filing of the application is surly completed?

[A. 11] All the required documents needed for filing an application are well prepared and hence received, the application filing number is given. If the paper documents are received, the notice for the application filing number is mailed out, and if the electronic documents are received, the notice for the application filing number can be printed out in 『The Civil Affair Application System for Variety Management』 . (After logging into the system, please click as follows: 『My Civil Affair - Inquiry about Application Filing Record - Notice』).

[Q. 12] I would like to withdraw my application filing for variety protection. Do I have to submit documents?

[A. 12] It can be done by filling in The Attached Form No. 9, The Variety Protection Withdrawal Form, attaching one copy of each related document (a certificate verifying the opposite party's consent if such a consent is necessary; and a certificate proving the power of representation if an agent is appointed) and submitting them.

[Q. 13] I understand The Variety Protection Gazette is published. Can I have it delivered regularly every month?

[A. 13] If you want to get The Variety Protection Gazette in a booklet form on a regular base, please contact the Variety Protection Counseling Center at Korea Seed & Variety Service. Besides the booklet, it is posted on the home page of Korea Seed & Variety Service as an e-book, and hence, you can read its contents anytime.

[Q. 14] In case that an Examination Report on Cultivation Results is submitted after receiving it from other country, can the Fee for Cultivation Examination be waived?

[A. 14] No. Even though a given variety is registered for protection in other countries, the application for variety protection in Korea is filed through a separate procedure. It can be a kind of reference data but not a reason to waive the Examination Fee

[Q. 15] I would like to pre-pay the Fees for Plant Variety Protection covering 5 years. Is it possible?

[A. 15] If the right holder for variety protection wishes to pay the Fees for Plant Variety Protection covering several years at one time, the right holder can pay in advance the annual Fees covering the payment period the holder wishes.

If the fees covering several years are pre-paid at one time, it is considered that the payment for the Fees for Plant Variety Protection has been properly completed even though there is a change in the Fees for Plant Variety Protection. In other words, no additional payment is required.

[Q. 16] What is the Right to Provisional Protection? From when can such a right be exercised?

[A. 16] The Right to Provisional Protection means an exclusive right for variety protection the applicant shall have to commercially and industrially exploit the variety claimed in the variety protection application from the date when his/her application is laying open to the public.

[Q. 17] I would like to download the Characteristics Test Guideline of the applied variety. Where can I find it?

[A. 17] The Characteristics Test Guideline of the applied variety can be searched by crop by clicking the menu of 『Variety Protection - Characteristics Test Guideline by Crop』 at the home page of Korea Seed & Variety Service(KSVS) or by pushing the button of the Characteristics Test Guideline at the lower-left corner of the Main window of the home page of Korea Seed & Variety Service(KSVS).

The screenshot shows the KSVS website interface. At the top, the navigation bar includes '품종보호' (Variety Protection), which is circled in red. Below the navigation bar, there are several content blocks. In the bottom-left corner, there is a section titled '이달의 신제품 현황' (Current Status of New Products This Month) with a sub-section '특성조사요령' (Characteristics Test Guideline), which is also circled in red. Other sections include '알림판' (Noticeboard), '국립종자원 소식' (KSVS News), '정부보급증 안내' (Government Supply Certificate Notice), '홍보동영상' (Promotional Videos), '고객 소통공간' (Customer Communication Space), '인원신청시스템' (Personnel Application System), and '인원신청안내' (Personnel Application Guide).

[Q. 18] If there is no Characteristics Test Guideline for the crop the applicant filed, how can the Table of Characteristics for the given crop be written?

[A. 18] As of October in 2012, Test Guidelines for 309 crops are completed. If the Characteristics Test Guideline for the given crop is not available, please contact the Variety Protection Counselling Center and ask advice of the examiner in charge.

[Q. 19] What about the cultivation test period by crop?

[A. 19] In principal, a crop should be cultivated at the same site and by the same method for more than 2 years (or more than 2 growing cycles). The period, however, can be adjusted depending on the crop.

[Q. 20] I would like to know how the cultivation examination is conducted for the variety in the course of application and registration. Who should I speak to?

[A. 20] Please contact the Variety Protection Counselling Center.
(Tel. 031-467-0111, Fax. 031-467-0116)

[Q. 21] Please let me know the period to submit the seed samples by crop and the cultivation test period.

[A. 21] In case of crops propagated by seed, please submit the seed samples along with the Application Form. In case of vegetatively propagated crops, the Request Form to submit seed samples shall be sent to you by each branch office of cultivation test site when the sowing time comes. Then you can submit the seed samples.

[Q. 22] I would like to submit the seed samples for the variety to be applied overseas. The variety, however, does not have a rooting yet, and hence, requires more time. It is not possible to submit the seed samples in time. What shall I do?

[A. 22] In case that the seed samples cannot be submitted within the specified deadline, the examiner shall order the adjustment with a specific period according to Article 7 of Seed Industry Law. In case that the seed samples cannot be submitted within the adjusted period, the procedure concerning Variety Protection can be invalid.

[Q. 23] I have received a notice of Rejection Ruling at the Cultivation Examination. Can I request a reexamination?

[A. 23] A reexamination is possible if the applicant, who received a notice of Rejection Ruling from the examiner, protests against the examiner's ruling, and submits the request for trial to the Variety Protection Appeals Committee within 30 days from the date of receiving a notice of Rejection Ruling.

[Q. 24] How can I confirm whether the Registration Certificate for Variety Protection has been issued or not?

[A. 24] If a decision on Registration of Variety Protection is made, a notice of registration fee payment is mailed out together with the Registration Certificate. Upon the date when the Registration Fee is paid, the right for variety protection is settled.

Since the Registration Certificate for Variety Protection is sent to the applicant after the payment is confirmed, the applicant can get the Registration Certificate for Variety Protection within a week from the date of payment.

[Q. 25] I would like to get the data on the current state of variety registration? Where can I get the information?

[A. 25] You can find the data on the current state of variety registration if you visit the home page of Korea Seed & Variety Service(<http://www.seed.go.kr>) and click 『Variety Protection - Current State of Registration』 at the top. You can also search the current state of application filing by crop and by variety at 『Current State of Registration - Application & Registration for Variety Protection.』

[Q. 26] Please let me inform of the possibility of revitalizing the Variety Protection Right that lapsed.

[A. 26] The Variety Protection Right dies out when the Variety Protection Fee is not paid within the specified payment period, when the Variety Protection Right is relinquished, and when the Variety Protection Right is cancelled or when there is no heir to the Variety Protection Right.

Those who want to register the Variety Protection Right or those who hold it can pay the Variety Protection Fee within 6 months even after the payment deadline, but this time, the double payment is required.

If the Variety Protection Fee is not paid even during that period, the applicants to register the Variety Protection Right shall be regarded as those who abandon their application filing for Variety Protection. The Variety Protection Right of those who hold the Variety Protection Right shall lapse retroactively from the following day of the date when the period to pay the given Variety Protection Fee expires.

At present, it is not possible to restore the right which lapsed because of the failure to pay the Variety Protection Fee. However, if the right is restored through reexamination after the Variety Protection Right becomes invalid, the applicant shall complete the Attached Form No. 18 "Application Form to Restore the Registration" according to Article 22-No. 12 of Regulations on Variety Registration complying Article 53 of Seed Industry Law.

[Q. 27] Can I apply for inspection of the original registration book for variety protection?

[A. 27] All the stakeholders related to the variety protection can apply for inspection and copying of documents concerning the application filing for variety protection, the Variety Protection Right and examination tests for applied varieties to the Minister of Ministry for Food, Agriculture, Forestry and Fisheries of Korea.

The application filing documents, however, are not allowed to inspect in the following cases: when an applicant for protecting the given variety requests not to open the application filing; or when the application filing for variety protection is not laying open.

[Q. 28] Can I search the names of the registered varieties from the home page in English version?

[A. 28] You can search information on application filing and registered varieties at 『Function-Searching plant variety protection Database』 of the home page in English version.