

[AS PASSED BY THE NATIONAL ASSEMBLY]

**A
BILL**

to encourage the development of new plant varieties and to protect the rights of breeders of such varieties.

WHEREAS the establishment of a viable seed industry is essential to the food security in Pakistan to ensure the availability of high quality seeds and planting material to the farmers;

AND WHEREAS it is expedient to make provisions for the development of new plant varieties and protection of the rights of breeders of such varieties providing exceptions to scientific researchers and farmers for matters connected therewith or incidental thereto;

AND WHEREAS it is imperative to give effect to the provisions of sub-paragraph (b) of paragraph 3 of Article 27 in Part II of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) which the Government of Pakistan has ratified, relating to protection of new plant varieties;

AND WHEREAS the Provincial Assemblies of Balochistan, Khyber Pakhtun Khawa, Punjab, and Sindh have passed resolutions under Article 144 of the Constitution of the Islamic Republic of Pakistan to the effect that Majlis-e-Shoora (Parliament) may regulate and make law on Plant Breeders' Rights and matter connected therewith;

It is hereby enacted as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Plant Breeders' Rights Act, 2016.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once except the provisions of section 10, which shall come into force on such date as the Federal Government may, by notification in the official Gazette, appoint.

CHAPTER-I.
PRELIMINARY

2. Definitions.- In this Act, unless there is anything repugnant to the subject or context,-

- (i) “applicant” means any natural or legal person who has submitted an application for the grant of Plant Breeders’ Rights under this Act;
- (ii) “breeder” means a natural or legal person, an institution, a farmer or an organization which has bred, discovered or developed a new plant variety;
- (iii) “Committee” means the Plant Variety Protection Advisory Committee established under section 10;
- (iv) “certificate” means the certificate of protection of plant breeders’ right issued with regard to an essentially derived variety under sub-section (3) of section 20 or (with regards to a new plant variety) under section 21;
- (v) “commercial” means a business activity related to the production, processing or merchandising seeds or propagating material including sale, distribution or resale for the purpose of making profit;
- (vi) “Convener” means the Convener of the Plant Variety Protection Advisory Committee appointed under section 10;
- (vii) “Director General” means the Director General of the Federal Seed Certification and Registration Department;
- (viii) “Distinctness, Uniformity and Stability (DUS) examination’ means plant variety examination for distinctness, uniformity and stability carried out by the Federal Seed Certification and Registration Department;
- (ix) “Department” means the Federal Seed Certification and Registration Department;
- (x) “essentially derived variety,” means a variety derived from a protected variety where the protected variety is not itself an essentially derived variety, while it retains the expression of essential characteristics that result from the genotype or combination of genotypes of the initial variety
and-
 - (i) it is clearly distinguishable from such initial variety, and

- (ii) it conforms (except for the differences which result from the act of derivation) to such initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of such initial variety;
- (xi) “export” with its grammatical variations and cognate expressions means to take out of Pakistan;
- (xii) “farmer” means any legal or natural person who cultivates crops either through cultivating land himself or through a person employed for the purpose;
- (xiii) “genetically modified plant variety” means plant varieties which have been bred by genetic engineering involving molecular techniques that modify, recombine and transfer genes or segments of genetic material and includes recombinant deoxyribonucleic acid (DNA) techniques that transfer genes or segments of genetic material between genotypes (species that have no probability of exchanging genes in nature) and shall also apply to plant varieties derived from a living modified organism;
- (xiv) “hybrid” means (1) the first generation offspring of a cross between two individuals (plants) differing in one or more genes; (2) the progeny of a cross between species of the same genus or of different genera;
- (xv) “import” with its grammatical variations and cognate expressions means to bring into Pakistan;
- (xvi) “invention” means any new and useful product or process, in any field of technology and includes any new and useful improvement of either of them;
- (xvii) “Local communities” means the human population in a distinct ecological area who depend directly on its biodiversity and ecosystem goods and services for all or part of their livelihood and who have developed or acquired traditional knowledge as a result of this dependence;
- (xviii) “Ministry” means Ministry of National Food Security and Research;
- (xix) “National Bio-safety Committee” means the committee established by the Federal Government under clause (d) of section 15;

- (xx) “plant” means a living organism classified in Kingdom Plantae;
- (xxi) “Plant Breeders’ Rights Journal” means the journal published by the Registry.

- (xxii) “plant variety” means a plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a new plant varieties are fully met, may be,-
 - (i) defined by the expression of the characteristics resulting from a given genotype or combination of genotypes;
 - (ii) distinguished from any other plant grouping by the expression of at least one of the said characteristics; and
 - (iii) considered as a unit with regard to its suitability of the plant grouping for being propagated unchanged;

- (xxiii) “prescribed” means prescribed by the rules made under this Act;

- (xxiv) “protected variety” means a plant variety for which a certificate of protection of Plant Breeders’ Rights has been issued under this Act;

- (xxv) “public sector research institution” means a research institution under the control of the Federal Government or a Provincial Government receiving financial support from the Government;

- (xxvi) “register” means the register of protected plant varieties as provided under section 9;

- (xxvii) “Registrar” means the Registrar appointed under section 5;

- (xxviii) “Registry” means the Plant Breeders’ Rights Registry established under section 3;

- (xxix) “rules” mean rules made under this Act; and

- (xxx) “terminator technology” means genetic modification that includes gene or gene sequences which restrict germination of the seed produced by the plant variety during the next subsequent year of planting.