

Protection of Plant Varieties and Farmer's Rights Act, 2001

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INTRODUCTION

The Government of India sanctioned "Protection of Plant Varieties and Farmers Rights Act-2001" to implement the provisions of the act the Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare Established on 11 Nov 2005, receiving **Sui Generis System** [in latin "of its own kind" or unique]. In order to provide for the establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plant. In order to maintain balance agriculture development and protecting plant varieties and farmers rights. The Indian legislation enacted to balance breeders rights with farmers rights, aligning with WTO [World Trade Organizations] TRIPS [Trade Related Aspects of Intellectual Property Rights] obligations. This Indian enactment isn't just incongruous with International Union for the Protection of New Varieties of Plants [UPOV], 1978 but it also has adequate arrangements for securing the interests of open division reproducing foundations and the farmers.

The act focus on biological/agricultural variety with requirements of DUS [Distinctness, Uniformity, Stability]. And user rights flexible; includes specific "Farmers Rights". It establishes a system to register new/extent varieties, protect plant breeders rights and safeguards farmers traditional rights to save, use, share and sell farm saved seeds, including registered varieties without using the branded name. Here breeders rights, researchers right, farmers rights are there and benefits sharing & compensation, National Gene Fund which support conservation and provide compensation. If a breeder fails to meet public demand for seeds at a reasonable price the authority can grant license to third party. By this act 10462 varieties are certificated issued as on 31-12-2025.

History of PPVFRA

The PPVFRA was enacted in 2001 after engaging debates were held in the country on how intellectual property rights should be introduced in Indian agriculture after the country joined the World Trade Organisation in 1995 and agreed to implement the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The choice before India was to either enact a law that protected the interests of farming communities or to accept the framework of plant breeders' rights given by the International Union for Protection of New Plant Varieties (UPOV Convention). The latter option was rejected primarily because the current version of UPOV, which was adopted in 1991, denies the farmers the freedom to reuse farm-saved seeds and to exchange them with their neighbours.

Therefore, in the PPVFRA, India introduced a chapter on Farmers' Rights, which has three legs:

one, farmers are recognised as plant breeders and they can register their varieties;
two, farmers engaged in the conservation of genetic resources of landraces and wild relatives of economic plants and their improvement through selection and preservation are recognised and rewarded; and, three, protecting the traditional practices of the farmers of saving seeds from one harvest and using the saved seeds either for sowing for their next harvest or sharing them with their farm neighbours.

STRUCTURE OF PPVFR ACT

1) The Central Government shall, by notification in the Official Gazette, establish an authority to be known as the Protection of Plant Varieties and Farmers Rights Authority for the purposes of this Act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of properties, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the Authority shall be at such place as the Central Government may, by notification in the Official Gazette, specify and the Authority may, with the previous approval of the Central Government, establish branch offices at other places in India.

(4) The Authority shall consist of a Chairperson and fifteen members.

(5) (a) The Chairperson, to be appointed by the Central Government, shall be a person of outstanding caliber and eminence, with long practical experience to the satisfaction of that Government especially in the field of plant varietal research or agricultural development.

(b) The members of the Authority, to be appointed by the Central Government, shall be as follows, namely:--

(i) the Agriculture Commissioner, Government of India, Department of Agriculture and Cooperation, New Delhi, *ex officio*;

(ii) the Deputy Director General incharge of Crop Sciences, Indian Council of Agricultural Research, New Delhi, *ex officio*;

(iii) the Joint Secretary incharge of Seeds, Government of India, Department of Agriculture and Cooperation, New Delhi, *ex officio*;

(iv) the Horticulture Commissioner, Government of India, Department of Agriculture and Cooperation, New Delhi, *ex officio*;

(v) the Director, National Bureau of Plant Genetic Resources, New Delhi, *ex officio*;

(vi) one member not below the rank of Joint Secretary to the Government of India to represent the Department of Bio-technology, Government of India, *ex officio*;

(vii) one member not below the rank of Joint Secretary to the Government of India to represent the Ministry of Environment and Forests, Government of India, *ex officio*;

(viii) one member not below the rank of Joint Secretary to the Government of India to represent the Ministry of Law, Justice and Company Affairs, Government of India, *ex officio*;

(ix) one representative from a National or State level farmers organisation to be nominated by the Central Government;

(x) one representative from a tribal organisation to be nominated by the Central Government;

(xi) one representative from the seed industry to be nominated by the Central Government;

(xii) one representative from an agricultural University to be nominated by the Central Government;

(xiii) one representative from a National or State level womens organisation associated with agricultural activities to be nominated by the Central Government; and

(xiv) two representatives of State Governments on rotation basis to be nominated by the Central Government.

(c) The Registrar-General shall be the *ex officio* member-secretary of the Authority.

(6) The term of office of the Chairperson and the manner of filling the post shall be such as may be prescribed.

(7) The Chairperson shall appoint a Standing Committee consisting of five members, one of whom shall be a member who is a representative from a farmers' organisation, to advise the Authority on all issues including farmers rights.

(8) The Chairperson shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, provident fund and other matters as may be prescribed. The allowances for non-official members for attending the meetings of the Authority shall be such as may be prescribed.

(9) The Chairperson may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

the Chairperson or on the vacation of the office of the Chairperson for any reason, the Central Government may appoint one of the members to officiate as Chairperson till a regular Chairperson is appointed in accordance with clause (a) of sub-section ((10) On the resignation of 5).

General Functions of the Authority

1. Registration of new plant varieties, essentially derived varieties (EDV), extant varieties.
2. Developing DUS (Distinctiveness, Uniformity, Stability) test guidelines for new plant species.
3. Documentation, indexing and cataloguing of farmer's varieties.
4. Developing characterization and documentation of varieties registered.
5. Preservation of plant genetic resources of economic plants and their wild relatives.
6. Recognizing and rewarding farmers, community of farmers, particularly tribal and rural community engaged in conservation and improvement.
7. Maintenance of the National Registered of plant varieties.
8. Maintaining of Gene Bank.

Objectives of the PPV & FR Act, 2001

1. To establish an effective system for the protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants.
2. To recognize and protect the rights of farmers in respect of their contributions made at any time in conserving, improving and making available plant genetic resources for the development of new plant varieties.
3. To accelerate agricultural development in the country, protect plant breeders' rights; stimulate investment for research and development both in public & private sector for the development new of plant varieties.
4. Facilitate the growth of seed industry in the country which will ensure the availability of high quality seeds and planting material to the farmers.

Key rights under the PPV&FR Act, 2001:

Farmers' Rights (Section 39):

Saving and Selling Seeds: Farmers can save, use, share, or sell farm produce/seeds of protected varieties, provided they do not sell branded seeds of a protected variety.

Registration of Varieties: Farmers can register their own varieties as new, extant, or farmers' varieties if they meet criteria for distinctness, uniformity, and stability.

Benefit Sharing: Farmers are entitled to claim compensation if a registered variety fails to perform as promised.

Protection against Infringement: Farmers are exempt from paying fees in any proceeding before the Authority, Registrar, Tribunal, or High Court.

Recognition: Farmers are eligible for rewards and recognition for conserving plant genetic resources.

Breeders' Rights (Sections 24, 28, 30):

Exclusive rights to produce, sell, market, distribute, import, or export the registered variety.

Protection duration is 15 years for field crops and 18 years for trees and vines.

Breeders can file for civil remedies against infringement.

Researchers' Rights (Section 30):

Researchers are permitted to use any registered variety for conducting experiments or research.

Registered varieties can be used as an initial source for developing new varieties, though repeated use for commercialization requires authorization.

Communities rights(Section 41):

It is compensation to villages or local communities for their significant contributions in the evolution of variety which has been registered under the act. Any person/group of persons/governmental or non-governmental organizations, on behalf of any village/local community in India, can file in any notified centre, claim for contribution in the evolution of any variety.

Registration:

A variety is eligible for registration under the act if it essentially fulfills the criteria of Distinctiveness, Uniformity and Stability(DUS). The Central Government issues notification in official Gazettes specifying the genera and species for the purpose of registration of varieties. So far, the central Government has notified 157 crop species for the purpose of registration.

Fees for Registration:

Application for registration of plant varieties should be accompanied with the fee of registration prescribed by the authority. Fee for registration for different types of variety is as under.

1. Types of Variety.

Extant Variety notified under section 5 of the Seeds Act, 1966

Fees for Registration

Rs 2000/-

2. Types of Variety.

New Variety/Essentially Derived Variety (EDV)/ Extant Variety about which there is common knowledge (VCK).

Fees for Registration.

Individual Rs. 7000/-

Educational Rs.10000/-

Commercial Rs.50000/-

3. Farmers Varieties

No Fee

The Registration of a variety is renewable subject to payment of annual and renewal fee as notified in the Plant Variety Journal of India of the Authority and Gazette of India dated 15.06.2015.

Certificate of Registration:

The certificate of registration issued will be valid for nine years in case of trees and vines and six years in case of other crops. It may be reviewed and renewed for the remaining period on payment of renewal fees subject to the condition that total period of validity shall of

exceed eighteen years in case of trees and vines from the date of registration of the variety, fifteen years from the date of notification of variety under the seeds Act, 1966 and in other cases fifteen years from the date of registration of the variety.

DUS:

Dus (distinctness, Uniformity, stability) centres in India are specialized, authorized institutions, primarily under the Indian Council Of Agriculture Research (ICAR), that conduct field test to verify new plant varieties for registration under the Protection of Plant varieties Farmers Rights Act, 2001. These centres ensure a variety is distinct, uniform, and stable compared to existing ones, with key locations including the ICAR Indian institute of Rice research in Hyderabad for rice and CICR Regional Stations for cotton.

Key Aspects of DUS Centres:

Purpose: To evaluate new, extent, and farmers varieties for intellectual property rights protection.

Testing Process: Involves growing trails (usually at least two seasons/location) to check for distinctness from known varieties, uniformity, and stability over generations.

National Gene Bank:

Under the Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001, the Protection of Plant Varieties and Farmers' Rights Authority established a National Gene Bank to store seeds and parental lines of registered plant varieties. It ensures the conservation, evaluation, and security of genetic resources, acting as a repository for dispute settlement and, when required, for compulsory licensing.

Key details regarding the National Gene Bank and related provisions include:

Purpose: The Bank stores seeds and propagation material to facilitate verification and protect against market malpractice.

Storage & Rejuvenation: Materials are stored at low temperatures, and if necessary, seeds are rejuvenated at the applicant's cost.

Public Domain: Once the registration period lapses, the material moves to the public domain.

National Gene Fund (Section 45): Established under the Act to support conservation, it receives money from benefit-sharing, annual fees (royalties), and compensation.

Management: While the PPV&FR Authority handles the specific, registered variety deposits, the overarching National Gene Bank is managed by the ICAR-NBPGR

The act reinforces farmers rights to save, use and sell seeds while protecting breeders investments in new variety development.

Plant Varieties Protection Appellate Tribunal:

Plant Varieties Protection Appellate Tribunal has been set up by delegating members.

All requests or choices of registrar of authority identifying with an enrolment of assortment can be bid in the tribunal.

All requests or choices of authority identifying with advantage sharing, renouncement of an obligatory permit, and instalment of pay can likewise be offered in the tribunal.

The choices of PVPAT can be tested in the high court.

CRITICISMS:

While the Protection of Plant Varieties and Farmers' Rights Act (PPV&FRA), 2001, is a landmark legislation for balancing interests, it faces several criticisms and practical disadvantages for both farmers and breeders.

For Farmers

Techno-Legal Complexity: Resource-poor farmers often struggle to navigate the complex registration process, which requires high technical expertise for scientific validation.

Cost of Registration: Developing and registering a "new farmers' variety" can cost an estimated ₹2–3 lakhs, including mandatory DUS (Distinctness, Uniformity, Stability) test fees, which is prohibitive for smallholders.

Bias in Standards: The Act applies the same rigid DUS criteria to both commercial breeders and farmers. Traditional "farmers' varieties" often have natural genetic variability, making it difficult for them to meet the strict "uniformity" and "stability" standards required for registration.

Weak Compensation Implementation: Although the Act provides for compensation if seeds underperform, clear rules and criteria for holding breeders liable remain under-specified, making it difficult for farmers to actually receive payouts.

For Breeders and MNCs

Limited Commercial Control: Unlike strict international models (like UPOV 1991), India allows farmers to save, use, and even sell farm-saved seeds of protected varieties. This reduces the market size for commercial breeders and can discourage private investment.

Compulsory Licensing Risks: If a breeder does not make a variety available at a "reasonable price," the government can issue compulsory licenses to third parties, potentially undermining the breeder's exclusive rights.

Technological Transfer Barriers: Stricter farmer rights may prevent large global players from transferring their most advanced technological know-how to India due to fears of poor intellectual property protection.

General and Implementation Issues

Outdated Definitions: Current definitions of "seed" and "variety" may not fully cover modern technologies like tissue-culture plantlets, synthetic seeds, or complex genotypes.

Low Awareness: Many stakeholders, especially small-scale farmers, remain unaware of their legal rights and the potential benefits of the Act.

Bio-piracy Concerns: There are ongoing fears that traditional community seeds could be registered by private companies without adequate benefit-sharing or consent from the original farming communities.

Conclusion:

The Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001, is a unique sui generis system that reflects India's attempt to reconcile global intellectual property requirements (TRIPS) with its national agricultural reality. Balance of rights it is the only IPR legislation in the world that simultaneously grants formal intellectual property rights to both plant breeders and traditional farmers. Seed sovereignty by explicitly protecting a farmer's right to save, use, exchange, or sell farm-saved seeds (though not as branded seeds), the Act prevents corporate monopolies from fully controlling the food supply. Conservation incentives the establishment of the National Gene Fund ensures that local communities are rewarded for conserving biodiversity and traditional varieties.

Challenges to Success

Awareness gap its effectiveness is frequently hampered by a lack of awareness among small and marginal farmers, many of whom remain caught between legal complexities and corporate dominance. Implementation hurdles Strict registration criteria (DUS—Distinctness,

Uniformity, Stability) are often better suited for commercial breeders than for the natural genetic variability found in farmers' traditional varieties.

Final Verdict

The Act is more than just a legal document; it is a framework for social and ecological justice. While it provides the necessary incentives for MNCs to invest in high-yield seed research, its primary achievement is ensuring that modernization does not come at the expense of traditional farming rights. For its full potential to be realized, future efforts must focus on simplifying registration for farmers and strengthening benefit-sharing mechanisms.

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