

THE REPUBLIC OF KENYA

LAWS OF KENYA

THE SEEDS AND PLANT VARIETIES (PLANT BREEDER'S RIGHTS) REGULATIONS

NO. 482 OF 1994

Revised and published by the National Council for Law Reporting
with the authority of the Attorney-General as gazetted by the Government Printer

www.kenyalaw.org

Kenya

Seeds and Plant Varieties Act

The Seeds and Plant Varieties (Plant Breeder's Rights) Regulations

Legal Notice 482 of 1994

Legislation as at 31 December 2022

By Kenya Law and Laws.Africa. Share widely and freely.

www.kenyalaw.org | info@kenyalaw.org

FRBR URI: /akn/ke/act/ln/1994/482/eng@2022-12-31

There is no copyright on the legislative content of this document.

This PDF copy is licensed under a Creative Commons Attribution NonCommercial ShareAlike 4.0 License (CC BY-NC-SA 4.0). This license enables reusers to distribute, remix, adapt, and build upon the material in any medium or format for noncommercial purposes only, and only so long as attribution is given to the creator. If you remix, adapt, or build upon the material, you must license the modified material under identical terms. CC BY-NC-SA includes the following elements:

- BY: credit must be given to the creator.
- NC: Only noncommercial uses of the work are permitted.
- SA: Adaptations must be shared under the same terms.

Share widely and freely.

The Seeds and Plant Varieties (Plant Breeder's Rights) Regulations (Legal Notice 482 of 1994)
Contents

1. Citation 1
2. Interpretation 1
3. The Plant Breeder's Rights Committee 1
4. Functions of the Committee 2
5. Meetings of Committee 2
6. Application for a grant 2
7. Forfeiture of right to grant 2
8. Certificate of grant 3
9. Application for extension of the period of grant 3
10. Application for compulsory licence 3
11. Application for protective direction 3
12. Withdrawal of protective direction 4
13. Application for surrender of grant 4
14. Provision of information or evidence in support of application 4
15. Refusal of repeated application 4
16. Notification of applications 4
17. Application for opportunity to make representations 5
18. Hearing of representations 5
19. Appeals to the Tribunal 6
20. Cancellation of grant 6
21. Proposal of name for plant variety 6
22. Register of plant varieties 7
23. Botanical description and test results of variety 8
24. Inspection of register and documents 8
25. Address of grantee or applicant 8
26. Extension of period for compliance 8
27. Amendment of register records 8
28. Translation of documents 9
29. Fees 9
30. Enforcement of regulation 29 10
SCHEDULE 10

SEEDS AND PLANT VARIETIES ACT

THE SEEDS AND PLANT VARIETIES (PLANT BREEDER'S RIGHTS) REGULATIONS

LEGAL NOTICE 482 OF 1994

Published in Kenya Gazette Vol. XCVI—No. 58 on 25 November 1994

Commenced on 25 November 1994

[Amended by Seeds and Plant Varieties (Plant Breeder's Rights) (Amendment) Regulations, 1998 (Legal Notice 150 of 1998) on 30 October 1998]
[Revised by 24th Annual Supplement (Legal Notice 221 of 2023) on 31 December 2022]

1. Citation

These Regulations may be cited as the Seeds and Plant Varieties (Plant Breeder’s Rights) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“breeder” means a person who discovers or breeds a new plant variety and includes his successor in title;

“Committee” means the Plant Breeder’s Rights Committee established by regulation 3;

“grant” means a grant of plant breeder’s rights;

“grantee” means the holder of a grant, and in relation to a protected variety means the holder of a grant in respect of that variety;

“licensee” means a person licensed to exercise plant breeder’s rights;

“plant” means a plant in the plant kingdom and includes flowering and non-flowering plant species;

“prescribed fee” means the fee prescribed by regulation 29;

“protective direction” means a direction by the authorized officer under the Third Schedule to the Act;

“reproductive material” means the reproductive part of a plant and includes seeds and other vegetative propagating material such as a whole plant or parts thereof;

“the Kenya Plant Health Inspectorate Service” means the Kenya Plant Health Inspectorate Service established under paragraph 3 of the Kenya Plant Health Inspectorate Service Order (L.N. 305/1996).

[L.N. 150/1998, r. 2.]

3. The Plant Breeder’s Rights Committee

(1) There shall be a Committee to be known as the Plant Breeder’s Rights Committee, which shall consist of—

(a) the Director of Agriculture, who shall be the chairman;

(b) the Director, Kenya Agriculture Research Institute;

(c) the Director, Kenya Industrial Property Office;

(d) the Managing Director Horticultural Crops Development Authority;

(e) the Director, Kenya Forestry Research Institute;

(f) the Director, National Seed Quality Control Service;

(g) one representative of seed merchants; and

(h) one representative of Plant Breeders Association of Kenya.

(2) The Committee may co-opt a number of members not exceeding three to represent such interests as it may from time to time determine.

[L.N. 150/1998, r. 2.]

4. Functions of the Committee

The functions of the Committee shall be—

(a) to develop plant breeder's rights policy;

(b) with the approval of the Cabinet Secretary, to review plant breeder's rights regulations and standards as may from time to time be required;

(c) to make recommendations on the registration of grantees;

(d) to moderate cases of appeal by aggrieved persons;

(e) to review and recommend appropriate plant breeder's rights;

(f) to perform such other duties as may from time to time be assigned by the Cabinet Secretary.

5. Meetings of Committee

Subject to the directions of the Cabinet Secretary, the Committee shall meet at least once in every year.

6. Application for a grant

(1) An application for a grant shall be in Form I in the Schedule and shall be accompanied by the prescribed fee.

(2) Where the application is by a successor in title to the breeder, it shall be accompanied by—

(a) the original or a certified copy of the deed of assignment; or

(b) the original or a certified copy of the certificate of grant of letters of administration; or

(c) such documentary evidence as is in the opinion of the authorized officer sufficient to establish the title of the application.

(3) A person who—

(a) has a substantial interest in the plant variety in respect of which the application is made; or

(b) is in a position to adduce evidence which is likely to be material to the consideration of the application,

may on application to the authorized officer, be afforded an opportunity of making representations concerning the application.

7. Forfeiture of right to grant

(1) A person entitled to a grant by virtue of paragraph 9 of the Fourth Schedule to the Act may forfeit such right if, on being served with notice by the authorized officer, he fails to make a valid application under regulation 4 within the period specified in the notice.

(2) A notice under paragraph (1) shall be for such period not exceeding thirty days, as the authorized officer may specify.

(3) A person aggrieved by an act or omission of the authorized officer under this regulation may appeal to the Tribunal within fourteen days.

8. Certificate of grant

A certificate of a grant shall be in Form II in the Schedule and shall be issued on payment of the prescribed fee.

9. Application for extension of the period of grant

(1) An application for extension of the period of a grant under section 19(5) of the Act shall be in Form III in the Schedule and shall be accompanied by the prescribed fee.

(2) Subject to paragraph (3), an application under this Regulation shall be made not more than eighteen but not less than nine months before the date of expiry of the grant.

(3) The authorized officer may accept a late application under this Regulation if satisfied that the applicant's failure to lodge it within the prescribed period was due to circumstances beyond his control:

Provided the application is lodged at least three months before the date of expiry of the grant.

(4) A person who—

(a) is licensed to exercise any rights in the plant variety to which the application relates, or who otherwise has a substantial interest in the variety; or

(b) is in a position to produce evidence which is likely to be material to the consideration of the application and any person or organization representing such licensee or person so interested,

may on application to the authorized officer, be afforded an opportunity to make representations concerning the application.

10. Application for compulsory licence

(1) An application for a compulsory licence shall be in Form IV in the Schedule and shall be accompanied by the prescribed fee.

(2) In addition to a person or organization entitled to make representations by virtue of section 23(7) of the Act, a person licensed to exercise any right in the plant variety to which the application relates may apply to the Cabinet Secretary for an opportunity to make representations concerning the application.

(3) An application for the revocation, extension, limitation or other variation of the terms of a compulsory license shall be in writing addressed to the authorized officer.

11. Application for protective direction

(1) An application for a protective direction shall be in Form V in the Schedule and shall be accompanied by the prescribed fee.

(2) A certificate of a protective direction shall be in Form VI in the Schedule, and shall be issued on payment of the prescribed fee.

12. Withdrawal of protective direction

(1) If it is intended to withdraw a protective direction otherwise than on the request of the holder, the authorized officer shall give the holder thirty days' notice of the intention.

(2) A notice under paragraph (1) shall be in writing setting out the reasons for the intended withdrawal.

13. Application for surrender of grant

(1) An application for the surrender of a grant shall be in Form VII in the Schedule and shall be accompanied by the prescribed fee.

(2) A licensee of any right in the plant variety to which the application relates or a person who otherwise has a substantial interest in the variety may, on application to the authorized officer, be afforded an opportunity to make representations concerning the application.

14. Provision of information or evidence in support of application

(1) A person making an application under these Regulations shall provide the authorized officer with such information or evidence in support of the application as the authorized officer may require.

(2) In the case of an application for a grant, the applicant shall deliver to the authorized officer, or avail to him for examination, the reproductive or other plant material of the plant variety to which the application relates.

(3) In the case of any other application, the applicant shall deliver to the authorized officer the reproductive or other plant material as the authorized officer may require.

(4) The reproductive or other plant material delivered or availed by the applicant for examination by the authorized officer under this Regulation shall be of such quality and description as authorized officer shall specify.

(5) If in the course of examination of any plant material delivered or availed to the authorized officer under this Regulation any part thereof is lost or damaged, or is found to be unhealthy or otherwise unsuitable, the authorized officer may require the applicant to supply a further quantity of the plant material.

(6) The applicant shall at all reasonable times avail to the authorized officer such facilities as may be necessary for the inspection of plants, plant material trial grounds or other premises to which the application relates.

(7) The authorized officer may require an applicant to undertake trials or tests in connection with the plant variety to which his application relates, at such times and in such manner as the authorized officer may determine.

15. Refusal of repeated application

(1) If an application under regulation 9, 10 or 13 is made within 12 months of a decision by the Cabinet Secretary or the authorized officer on the same matter, the Cabinet Secretary or the authorized officer may, if in his opinion the application lacks merit, refuse it.

(2) Before refusing an application under paragraph (1), the Cabinet Secretary or the authorized officer shall afford the applicant an opportunity to make representations thereon.

16. Notification of applications

(1) The Cabinet Secretary shall notify every application under regulations 6, 9, 10 and 13 in the *Gazette*.

(2) A notice under paragraph (1) shall specify—

(a) the categories of the persons entitled to make representations concerning the application under the Act or these Regulations;

(b) the period within which an application for an opportunity to make representations may be made; and

(c) any matters on which the Cabinet Secretary or the authorized officer should be satisfied by a person or organization applying for an opportunity to make representations.

17. Application for opportunity to make representations

(1) A person or organization entitled by virtue of the provisions of the Act or these Regulations to make representations concerning any matter may apply in the prescribed form, to the Cabinet Secretary or the authorized officer, for an opportunity to make representations.

(2) An application under paragraph (1) shall be—

(a) in Form VIII in the Schedule;

(b) accompanied by the prescribed fee; and

(c) lodged within the period specified in regulation 16.

(3) The Cabinet Secretary or the authorized officer shall, on receipt of an application under this Regulation, afford the applicant an opportunity of making representations to him in writing, or of being heard by him or by a person deputed by the Cabinet Secretary for that purpose.

18. Hearing of representations

(1) The Cabinet Secretary or the authorized officer shall appoint a date and place for the hearing of representations by any applicant under regulation 17.

(2) In appointing the date and place for hearing, the Cabinet Secretary or the authorized officer shall have regard to—

(a) the convenience of the applicant and any witnesses;

(b) the situation of any land or premises to be viewed in connection with the application; and

(c) any other relevant circumstances.

(3) The Cabinet Secretary or the authorized officer shall give the applicant not less than 30 days' notice of the hearing.

(4) The applicant shall, at least 14 days before the date appointed for the hearing, deliver to the authorized officer two copies of any document intended to be relied on or tendered as evidence at the hearing.

(5) The applicant may appear in person at the hearing or be represented by a person of his own choice.

(6) At the hearing, the applicant or his representative may—

(a) give evidence;

(b) call witnesses;

(c) subject to paragraph (7), produce any document; and

(d) cross-examine any witnesses called.

(7) No document shall be relied on or produced in evidence under paragraph (6) unless copies thereof are delivered to the authorized officer in accordance with paragraph (4).

(8) The Cabinet Secretary or the authorized officer may require any witness called at the hearing to give evidence on oath, affirmation or otherwise and may for that purpose administer oaths or affirmations.

(9) subject to the directions of the Cabinet Secretary or the authorized officer in consultation with the applicant, the hearing shall be held in public.

(10) Before making his decision, the Cabinet Secretary or the authorized officer shall take into consideration any written representations made on the matter under regulation 17(3).

(11) The Cabinet Secretary or authorized officer shall give the applicant notice of his decision in writing, and shall specify therein the reasons for the decision.

(12) An applicant aggrieved by a a decision of the Cabinet Secretary or the authorized officer under this Regulation may appeal to the Tribunal within 14 days.

(13) subject to regulation 19, a decision of the Cabinet Secretary or the authorized officer shall take effect on such date as he directs.

19. Appeals to the Tribunal

(1) In appointing the time and place for hearing an appeal under section 29(1)(d), (e) or (f) of the Act, or under these Regulations, the Tribunal shall have regard to the matters specified in regulation 18(2).

(2) Subject to paragraph (3), the operation of any decision appealed from shall be suspended pending the final determination of the appeal.

(3) Notwithstanding any appeal, the operation of a decision to extend the duration of a grant shall not be suspended if the duration of the initial grant expires before the final determination of the appeal.

20. Cancellation of grant

(1) The Cabinet Secretary shall give the grantee thirty days' notice of intended cancellation of a grant under section 19(7) of the Act.

(2) A notice under paragraph (1) shall be in writing setting out the grounds for intended cancellation.

21. Proposal of name for plant variety

(1) The authorized officer may require an applicant for a grant to propose a name for the plant variety to which the application relates within such time as he may specify.

(2) The authorized officer may reject a name proposed under paragraph (1) if the name —

(a) is similar to that of a plant variety of the same class as the variety in respect of which the application is made being either—

(i) a class consisting of the plant varieties of the species or groups prescribed by a scheme under Part V of the Act; or

(ii) a class prescribed for the purposes of section 21 of the Act, or the name so nearly resembles the name of any plant variety as to be likely to deceive or cause confusion as to the identity of the variety; or

(b) is likely to deceive or cause confusion as to the characteristics or value of the plant variety or as to the identity of the breeder; or

(c) does not conform with international usage as regard the nomenclature of cultivated plants; or

(d) is similar to or likely to be confused with—

(i) a registered trade mark; or

(ii) a trade name used in respect of the reproductive material of any kind; or

(iii) products of the plant variety in respect of which the application is made; or

(iv) products of a plant variety of the same class as the variety in respect of which the application is made, being a class specified under paragraph 2(a); or

(e) is in the opinion of the authorized officer otherwise undesirable.

(3) If the authorized officer rejects a proposed name under paragraph (2), he shall so inform the applicant specifying the grounds for the rejection, and shall require him to propose another name within such time as he may specify.

(4) The Cabinet Secretary shall publish in the *Gazette*, or in such manner as he may deem appropriate notice of every proposed name that is not rejected by the authorized officer under paragraph (2).

(5) A person may, within 21 days of publication of a notice under paragraph (4), object to the approval of a proposed name on any of the grounds specified in paragraph (2).

(6) An objection under paragraph (5) shall be in writing addressed to the authorized officer.

(7) The authorized officer shall consider any objection lodged under paragraph (5) before approving the proposed name.

(8) The Cabinet Secretary shall notify in the *Gazette* every name approved by the authorized officer under this Regulation.

(9) If an applicant does not comply with a request of the authorized officer to propose a name within the period specified, the authorized officer may deem the application to be abandoned.

(10) An applicant for a grant, or a grantee may at any time propose to change the name approved under this Regulation.

(11) Upon a proposal under paragraph (9), the procedure for proposed names prescribed by this regulation shall apply.

22. Register of plant varieties

(1) The authorized officer shall maintain a register of plant varieties into which he shall enter the details relating to—

(a) a plant variety in respect of which a grant has been made; or

(b) a plant variety in respect of which an application for a grant is under consideration,

specified in this Regulation.

(2) As regards a plant variety in respect of which a grant has been made, the authorized

officer shall enter in the register—

(a) the name of the variety;

(b) a description of its characteristics;

(c) the reference number under which the variety is recorded in any reference collection of plant material maintained by the authorized officer;

(d) the name and address of the grantee;

(e) the date and duration of the grant;

(f) such other particulars as are in the opinion of the authorized officer necessary.

(3) As regards a plant variety in respect of which an application for a grant is under consideration, the authorized officer shall enter in the register—

(a) the proposed name of the variety;

(b) a description of the characteristics of the variety as provided by the applicant;

(c) the date of grant of any protective direction;

(d) the name and address of the applicant;

(e) such other particulars as are in the opinion of the authorized officer necessary.

23. Botanical description and test results of variety

The authorized officer shall keep a botanical description and the results of any tests or trials of a plant variety in respect of which an application for a grant is made.

24. Inspection of register and documents

Any person may, during working hours, inspect the register and any documents lodged with or kept by the authorized officer, and may on payment of the prescribed fee, obtain a copy of the register or other document.

25. Address of grantee or applicant

(1) A grantee or a person making any application under these Regulations shall give to the authorized officer an address for service of any documents required to be served upon him.

(2) A grantee or applicant who changes his name or address shall forthwith notify the authorized officer.

26. Extension of period for compliance

The Cabinet Secretary or authorized officer may, on application, extend the period set for compliance with any regulation if in the circumstances he deems it reasonable to do so.

27. Amendment of register records

(1) If the authorized officer receives notification of change of name or address of a grantee or applicant under regulation 26, he shall amend the register accordingly.

(2) Where—

(a) the approved name of a variety is changed under regulation 22; or

(b) the period of a grant expires or is extended; or

(c) a grant is surrendered or cancelled,

the authorized officer shall amend the register accordingly.

(3) The authorized officer shall also make such other amendments as may be necessitated by any information supplied to him.

28. Translation of documents

Where a document required to be submitted to the Cabinet Secretary, or authorized officer in connection with any matter is in a language other than the English language, it shall, unless the Cabinet Secretary or the authorized officer otherwise directs, be accompanied by a translation thereof in the English language.

29. Fees

The following fees shall be payable to the authorized officer for the purposes of the Act and these Regulations:

	Local	*Foreign*
	(KSh.)	*US $*
(a) application for a grant	10,000	200
(b) application for extension of the period of a grant	5,000	100
(c) application for a compulsory licence	3,500	70
(d) application for protective direction	2,000	40
(e) certificate for protective direction	6,000	120
(f) application for surrender of a grant	1,500	30
(g) application for opportunity to make representation	6,000	120
(h) inspection of register and documents	2,000	40
(i) for technical evaluation of variety	30,000	600
(j) for a certificate	12,000	240
(k) for a duplicate copy of the register or other document (per page)	20	0.05
(l) annual fees for grant	10,000	200
(m) purchase of a report from a testing authority in another country	16,000	320
(n) replacement of a lost or destroyed certificate	2,000	40

(o) claim of priority from a proceeding application outside Kenya	1,000	20
(p) for change of an approved denomination	4,000	80
(q) reinstatement of an abandoned application on petition	4,000	80
(r) surcharge for late payment	3,000	60

[L.N. 150/1998, r. 2.]

30. Enforcement of regulation 29

The prescribed fees specified in regulation 29 shall be deemed to have come into force on 1st December, 1996.

[L.N. 150/1998, r. 2.]

SCHEDULE

FORMS

FORM I (r. 6)

[L.N. 150/1998, r. 2.]

SEEDS AND PLANT VARIETIES ACT

(CAP. 326)

APPLICATION FOR A GRANT OF PLANT BREEDER'S RIGHTS

PART I

(Notes to be read before completing the form)

1. This form should be completed by a person or organization applying for a grant of plant breeder's rights under rule 6 of the Seeds and Plant Varieties (Plant Breeder's Rights) Regulations, 1994. Sections A and B should be completed by all applicants while section C should be completed by applicants from outside Kenya.
2. Where the application is by the successor in title to the breeder, it shall be accompanied by—
   (a) the original or a certified copy of the deed of assignment; or
   (b) the original or a certified copy of the certificate of the grant of probate, letters of administration; or
   (c) such other documentary evidence as is in the opinion of the authorized officer sufficient to establish the title of the applicant.
3. (1) If the applicant is a partnership firm, the application must be signed by all partners or by one partner on behalf of the firm.

(2) If the applicant is a body corporate, a society or other similar organization, the application must be signed by the secretary or other principle officer or by its authorized agent.

4. The application shall be processed subject to—
   (a) provision of all necessary information, records and materials required by the authorized officer under the Seeds and Plant Varieties (Plant Breeder's Rights) Regulations, 1994; and
   (b) payment of the application fee prescribed in regulation 29 of the said Regulations.
5. An applicant who wishes to apply for a protective direction of the authorized officer under the Third Schedule to the Seeds and Plant Varieties Act shall also complete Form V.

PART II

(To be completed by the applicant)

The Managing Director,

Kenya Plant Health Inspectorate Service,

Kabete,

P.O. Box 14733,

Nairobi.

A. I/We .....

(Full names of Applicant)

of .....

(Address) *(Telephone Number)*

apply for a grant of plant breeder's rights in the plant variety specified in section B.

B. *(Details of plant variety)*

1. Species or group of plant varieties to which plant variety belongs:

   .....

2. Name or proposed name for variety (if any):

   .....

3. Country in which the variety was bred or discovered:

   .....

4. Name of breeder or discoverer:

   .....

5. Have plants of the variety or any material forming Part of, or derived from them been offered for sale locally or abroad?

   ..... (YES/NO)

6. If so, give the following particulars:

   (i) Country of sale .....

   (ii) Date of first sale or offer for sale .....

   (iii) Terms or conditions of sale .....

   (iv) Has the breeder or discoverer consented to sale? ..... (YES/NO)

C. *(To be completed by applicants from outside Kenya)*

(i) Country of origin .....

(ii) Variety name or designation .....

(iii) Has any application for similar rights been lodged in any other country? ..... (YES/NO)

(iv) If so give details: .....

.....

(v) Do you claim in priority respect of an application lodged in another country within the last 12 months? ..... (YES/NO)

(vi) If so, give details of such applications: .....

DECLARATION

I/We declare that I/We have read and understood the conditions specified in Part I and undertake to abide by them as required and confirm that the information given in this application is correct to the best of my/our knowledge and belief.

.....

Signature of Applicant

_____

FORM II (r. 8)

[L.N. 150/1998, r. 2.]

SEEDS AND PLANT VARIETIES ACT

CERTIFICATE OF GRANT OF PLANT BREEDER'S RIGHTS

I certify that .....

(Full names of Applicant)

of .....

(Address) *(Telephone Number)*

has been granted plant breeder's rights in respect of .....

.....

(Name/Designation of variety)

.....

(Class) *(Registration Number)*

for a period of .....

years commencing on the ....., 20 .....

Date issued .....

Fee paid .....

.....

Director of Agriculture

Cabinet Secretary for Agriculture

FORM III (r. 9)

[L.N. 150/1998, r. 2.]

SEEDS AND PLANT VARIETIES ACT

APPLICATION FOR EXTENSION OF THE PERIOD OF A GRANT OF PLANT BREEDER'S RIGHTS

PART I

(Notices to be read before completing the application form)

1. This application should be lodged not more than eighteen months but not less than nine months before the date of expiry of the grant.
2. A late application may, in accordance with regulation 9(3) of the Seeds and Plant Varieties (Plant Breeder's Rights) Regulations, 1994, be lodged at least three months before the date of expiry of the grant.
3. The application must be accompanied by the prescribed fee.

PART II

(To be completed by the applicant)

The Managing Director,

Kenya Plant Health Inspectorate Service,

Kabete,

P.O. Box 14733,

Nairobi.

1. I/We .....

   (Name of Applicant)

   of .....

(Address) (Telephone Number)

   apply for extension of my grant of plant breeder's rights

   certificate of grant No. .....

   ..... issued

   on ....., due to expire

   on ....., for a further period

   of .....

2. The reason for seeking this extension is .....

   .....

3. The following persons/organizations are by virtue of the provisions of the Seeds and Plant Varieties Act and the Seeds and Plant Varieties (Plant Breeder's Rights) Regulations, 1994, interested in this application:

   1. .....

   2. .....

   3. .....

   4. .....

   5. .....

   6. .....

   7. .....

   8. .....

   9. .....

   10. .....

4. I enclose herewith KSh. .....

   being the fee payable in respect of this application.

Date ....

Signature of Applicant

FORM IV (r. 10)

SEEDS AND PLANT VARIETIES ACT

APPLICATION FOR COMPULSORY LICENCE

(Notices to be read before completing the application form)

[L.N. 150/1998, r. 2.]

The Managing Director,
Kenya Plant Health Inspectorate Service,
Kabete,
P.O. Box 14733,
Nairobi.

1. I/We ..... *(Name of Applicant}*

   of ..... *(Address)*

   ..... apply for a compulsory

   (Telephone Number)

   licence in respect of .....

   (Name/Designation of Variety)

   of the .....

   species/groups, in accordance this the provision of section 23 of the Seeds and Plant Varieties Act.

2. The above variety was bred/discovered by .....

   .....

   (Name of Breeder/Discoverer)

   and was released on ..... 20 .....

3. The following persons are, by virtue of the provision of the Seeds and Plant Varieties Act and the Seeds and Plant Varieties (Plant Breeder's Rights) Regulations, 1994 interested in this application-

   1. .....

   2. .....

   3. .....

   4. .....

4. Enclosed herewith is the fee of Ksh. .....

   Payable in respect of this application.

Date ....

Signature of Applicant

FORM V (r. 11)

[L.N. 150/1998, r. 2.]

SEEDS AND PLANT VARIETIES ACT

APPLICATION FOR A PROTECTIVE DIRECTION

PART I

(Notes to be read before completing the application form)

1. This application should be completed by an applicant for a grant who is also applying for a protective direction of the authorized officer under the Third Schedule to the Seeds and Plant Varieties Act.
2. Every applicant must, pursuant to paragraph 1 of the said Schedule, give the undertaking set out in paragraph 2 of Part II.
3. The undertaking referred to in paragraph 2 is subject to paragraph 1(3) of the Third Schedule to the Seeds and Plant Varieties Act which provides:

   "(3) An undertaking under this paragraph shall not prevent the applicant from making an offer for sale which in the period before the application would be permitted by subparagraphs (3) or (4) of paragraph 2 of Part II of the Fourth Schedule to this Act, or the exposure for sale of material where an offer for sale of that material would be so permitted".
4. The authorized officer may, if he thinks fit, grant a protective direction if he is satisfied that the applicant has—

   (i) duly given the undertaking; and

(ii) furnished him with all such information, facilities and materials as the officer may require from the applicant for the grant of plant breeder's rights.

PART II

(To be completed by the applicant)

The Managing Director,

Kenya Plant Health Inspectorate Service,

Kabete,

P.O. Box 14733,

Nairobi.

I/We .....

(Name of Applicant)

of .....

(Address) having submitted my/our application for grant of plant breeder's rights in respect of .....

hereby apply for a protective direction in respect of the variety in accordance with the Third Schedule to the Seeds and Plant Varieties Act.

I/We UNDERTAKE that subject to the exceptions in subparagraph 1(3) of the Third Schedule, during the period between the date of my application for a grant and the time when the application is finally determined (or, if this undertaking is discharged under the said Schedule at an earlier date, until that date) no plants or the variety, and no material forming part of, or derived from plants of that variety, shall be offered for sale or sold in Kenya by me/us or with my/our consent.

Date ....

Signature of Applicant

FORM VI (r. 11)

[L.N. 150/1998, r. 2.]

SEEDS AND PLANT VARIETIES ACT

CERTIFICATE OF GRANT OF PROTECTIVE DIRECTION

I certify that .....

(Name of Holder)

.....

(Address)

has pursuant to the provisions of the Third Schedule to the Seeds and Plant Varieties Act, been granted a protective direction in respect of .....

..... of

(Name/Designation of variety)

the ..... species/class

with effect from .....

Date of issue .....

Fee paid .....

.....

Director of Agriculture

Cabinet Secretary for Agriculture

_____

FORM VII (r. 13)

[L.N. 150/1998, r. 2.]

SEEDS AND PLANT VARIETIES ACT

APPLICATION FOR SURRENDER OF GRANT OF PLANT BREEDER'S RIGHTS

The Managing Director,

Kenya Plant Health Inspectorate Service,

Kabete,

P.O. Box 14733,

Nairobi.

1. I/We .....

(Name of Applicant)

of .....

(Address)

being the grantee of plant breeder's rights in respect of .....

.....

(Name/Designation of variety)

vide certificate of grant No. .....

issued on .....

due to expire on .....

hereby apply to surrender the grant for the following reasons:

.....

.....

2. The following persons/organizations are, by virtue of the provisions of the Seeds and Plant Varieties Act, and the Seeds and Plant Varieties (Plant Breeder's Rights) Regulations, 1994, interested in this application:

    1. .....

    2. .....

    3. .....

4. .....

3. Enclosed herewith is the fee of KSh. .....
payable in respect of this application

Date ....

Signature of Applicant

FORM VIII (r. 71)

[L.N. 150/1998, r. 2.]

SEEDS AND PLANT VARIETIES ACT

APPLICATION FOR OPPORTUNITY TO MAKE REPRESENTATIONS

(Notes to be read before completing the form)

NOTES

1. This form should be completed by a person or organization applying for an opportunity to make representations concerning any matter virtue of the provisions of the Seeds and Plant Varieties Act or the Seeds and Plant Varieties (Plant Breeder's Rights) Regulations, 1994

2. The application, should be lodged within the period specified under regulation 16 of the Seeds and Plant Varieties (Plant Breeder's Rights) Regulations, 1994.

3. The application may be lodged with the Cabinet Secretary or the authorized officer, as the case may be

4. The application must be accompanied by the prescribed fee.

(To be completed by the Applicant)

The Managing Director,

Kenya Plant Health Inspectorate Service,

Kabete,

P.O. Box 14733,

Nairobi.

1. I/We .....

(Name of Applicant)

of .....

(Address)

apply for an opportunity to make representations concerning the .....

.....

(Particulars of application or other matter)

notified in the Kenya *Gazette vide Gazette* Notice No. ..... of .....,

20 .....

2. I am a person/organization entitled to make representations concerning this matter by virtue of .....

(Specify relevant provisions of the Act or the Regulations)

being .....

(Specify nature of interest)

.....

3. Enclosed herewith is the fee of KSh. .....

payable in respect of this application

Date ....

Signature of Applicant