

ACT ON THE PROTECTION OF NEW VARIETIES OF PLANTS

Amended by Act No. 12062, Aug. 13, 2013

Article 1 (Purpose)

The purpose of this Act is to contribute to the development of the agriculture, forestry and fishing industry by providing for matters to protect the rights of breeders of new plant varieties.

Article 2 (Definitions)

The terms used in this Act shall be defined as follows:

1. The term "seed" means the seed as defined in subparagraph 1 of Article 2 of the Seed Industry Act;
2. The term "plant variety" means a plant grouping within a single botanical taxon of the lowest known rank, which, irrespective of whether the conditions for the grant of a plant variety right under Article 12 are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes distinguished from any other plant grouping, by the expression of at least one of the said characteristics, and considered as units with regard to its suitability for being propagated unchanged;
3. The term "breeder" means a person who either breeds, or discovers and develops a plant variety;
4. The term "plant variety right" means a right granted to a person entitled to plant variety protection under this Act;
5. The term "holder of a plant variety right" means the holder of a right to plant variety protection;
6. The term "protected plant variety" means a plant variety for which a plant variety right is granted as it meets requirements for plant variety protection under this Act;
7. The term "exploitation" means the propagation, production, production to order, transfer, loan, export, import, and application for transfer or loan (including exhibition for transfer or loan; hereinafter the same shall apply) of the seeds of protected plant varieties.

Article 3 (Plant Varieties Protectable)

Plant varieties protectable under this Act shall be all plant varieties.

Article 4 (Managers of Plant Variety Protection for Expatriates)

(1) Unless by a person who has his/her address or business office in the Republic of Korea and is the agent (hereinafter referred to as "manager of plant variety protection") of another person who has no address or business office in Korea (hereinafter referred to as "expatriate") concerning plant variety protection, neither procedures for plant variety protection shall be taken at the Ministry of Agriculture, Food and

Rural Affairs, the Ministry of Oceans and Fisheries or the Plant Variety Protection Tribunal under Article 90 (1) (hereinafter referred to as "procedures for plant variety protection") nor a lawsuit against disposition issued by administrative agencies pursuant to this Act or an order under this Act shall be filed, except where the expatriate applies for registration under paragraph (3) and in cases prescribed by Presidential Decree. <Amended by Act No. 11701, Mar. 23, 2013>

(2) A manager of plant variety protection shall represent the principal in lawsuits against disposition issued by an administrative agency under this Act or orders under this Act and all procedures for plant variety protection within the authority specifically given to him/her.

(3) Unless an expatriate having a plant variety right or a right registered concerning plant variety protection files for registration of the appointment and change of a manager of variety protection or the granting or revoking of the agent's authority, as prescribed by joint ordinance of the Ministry of Agriculture, Food and Rural Affairs and the Ministry of Oceans and Fisheries (hereinafter referred to as "joint ordinance"), he/she shall not assert the effect thereof against a third party. <Amended by Act No. 11701, Mar. 23, 2013>

(4) An expatriate shall register the appointment or change of a manager of plant variety protection when he/she files for registration of the establishment of his/her plant variety right or while the relevant plant variety right is valid.

Article 5 (Scope of Agent's Authority)

No agent delegated to take procedures for plant variety protection by a person having address or business office in Korea shall engage in any of the following unless he/she is given specific authority to do so:

1. Change, abandonment or withdrawal of an application for plant variety protection;
2. Withdrawal of requests or applications;
3. Claim for right of priority under Article 31 (1) or withdrawal thereof;
4. Requests for adjudication under Article 91;
5. Appointment of a subagent.

Article 6 (Verification of Agent's Authority)

The agent (including plant variety protection managers; hereinafter the same shall apply) of a person taking procedures for plant variety protection shall be verified in writing.

Article 7 (Representative of Multiple Parties)

(1) Where at least two persons take procedures for plant variety protection, each one of them represents all of them except for the acts provided for in subparagraphs 1 through 4 of Article 5: Provided, That the same shall not apply where they select a representative and file a report to the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries (or the chairperson of the Plant Variety Protection Tribunal (hereinafter referred to as "chairperson of the Tribunal") under Article 90 (2) in cases under subparagraph 4 of Article 5). <Amended by Act No. 11701, Mar. 23, 2013>

(2) The representative shall verify that he/she has been selected as a representative in writing when filing a report under the proviso to paragraph (1).

Article 8 (Extension, etc. of Period)

(1) For persons living in an area with poor transportation services, the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries or the chairperson of the Tribunal may extend the period for applying for adjudication under Article 91 or the period for revising reasons for filing an objection against the registration of denominations of plant varieties under Article 111, etc., upon the request of the relevant applicant or ex officio. *<Amended by Act No. 11701, Mar. 23, 2013>*

(2) Where a period during which procedures for plant variety protection are taken is set by the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries, the chairperson of the Tribunal, chief adjudicator designated under Article 95 (2) (hereinafter referred to as "chief adjudicator") or an examiner referred to in Article 36 (hereinafter referred to as "examiner") pursuant to this Act, he/she may extend the period upon the request of the relevant applicant or ex officio. *<Amended by Act No. 11701, Mar. 23, 2013>*

(3) When a date by which procedures for plant variety protection shall be taken is set by a chief adjudicator or examiner pursuant to this Act, he/she may change the date.

Article 9 (Correction of Procedures)

Where any of the following applies to procedures for plant variety protection, the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the chairperson of the Tribunal may issue a corrective order upon specifying a period: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. Where Article 5 is violated or Article 3 (1) of the Patent Act applied mutatis mutandis under Article 15 of this Act is violated;
2. Where methods determined by this Act or an order issued under this Act is not followed;
3. Where fees payable under Article 125 are not paid.

Article 10 (Invalidation of Procedures)

(1) Where a person subject to a corrective order issued under Article 9 fails to make a correction within a prescribed period, the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the chairperson of the Tribunal may invalidate the procedures for plant variety protection. *<Amended by Act No. 11701, Mar. 23, 2013>*

(2) Where procedures for plant variety protection are invalidated under paragraph (1), and a person subject to the corrective order is deemed to have failed to make a correction within the prescribed period due to a natural disaster or other inevitable grounds, the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the chairperson of the Tribunal may revoke the disposition of invalidation within 14 days from the date the relevant ground ceases to exist or within one year after the expiration of such period. *<Amended by Act No. 11701, Mar. 23, 2013>*

(3) Where the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the chairperson of the Tribunal issues disposition of invalidation under paragraph (1) or disposition revoking the disposition of invalidation under paragraph (2), he/she shall, without delay, serve a notice of disposition on the person subject to the corrective order. *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 11 (Timing when Submitted Documents Take Effect)

(1) Applications, requests and other documents (including articles; hereafter the same shall apply in this Article) submitted to the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the chairperson of the Tribunal pursuant to this Act or an order issued under this Act shall take effect from the date they reach the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the chairperson of the Tribunal. <Amended by Act No. 11701, Mar. 23, 2013>

(2) Where applications, requests and other documents referred to in paragraph (1) are submitted to the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the chairperson of the Tribunal by mail, they shall be deemed to have reached the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the chairperson of the Tribunal on the date indicated on the postmark under postal Acts and subordinate statutes if such date is clearly marked, or on the date (referring to the date shown on the postal receipt) they are submitted to the post office if not clearly marked. <Amended by Act No. 11701, Mar. 23, 2013>

(3) Unless otherwise expressly provided for in paragraphs (1) and (2), matters concerning the submission of documents having problems due to delay in the delivery of mail, loss or suspension of postal service shall be prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 12 (Implementation of Procedures for Plant Variety Protection Using Electronic Documents)

(1) A person who takes procedures for plant variety protection may submit an application for plant variety protection or other documents required under this Act to the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the chairperson of the Tribunal, in electronic document, via an information and communications network or after recording them on the electronic recording media, such as portable storage devices. <Amended by Act No. 11701, Mar. 23, 2013>

(2) Electronic documents submitted under paragraph (1) shall have the same effect as the documents submitted under this Act.

(3) Electronic documents submitted under paragraph (1) via an information and communications network shall be deemed received at the time they are electronically recorded on the electronic information processing system for receiving documents, used by the Ministry of Agriculture, Food and Rural Affairs, the Ministry of Oceans and Fisheries or the Tribunal. <Amended by Act No. 11701, Mar. 23, 2013>

(4) Kinds of documents that can be submitted in electronic documents under paragraph (1), methods of submission and other matters necessary for submitting electronic documents shall be prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 13 (Reporting on Use of Electronic Documents and Electronic Signature)

(1) A person who intends to take procedures for plant variety protection in electronic documents pursuant to Article 12 (1) shall first report on the use of electronic documents to the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the chairperson of the Tribunal, and electronic signature shall be placed on the electronic documents submitted to identify the submitter. <Amended by Act No. 11701, Mar. 23, 2013>

(2) Procedures for reporting on the use of electronic documents under paragraph (1), methods of placing electronic signature, and other matters shall be prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 14 (Giving Notification, etc. via Information and Communications Networks)

(1) The Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries, the chairperson of the Tribunal, chief adjudicators and examiners may notify documents to or serve documents on a person who have reported on the use of electronic documents under Article 13 (1) (hereinafter referred to as "notification, etc. of documents") via an information and communications network. <Amended by Act No. 11701, Mar. 23, 2013>

(2) The notification, etc. of documents via an information and communications network under paragraph (1) shall have the same effect as those given in writing.

(3) The notification, etc. of documents shall be deemed to have reached at the time they are electronically recorded on the electronic information processing system used by a receiver of such documents.

(4) Matters concerning the kinds and methods of notification, etc. of documents via an information and communications network under paragraph (1) and other matters shall be prescribed by joint ordinance.

<Amended by Act No. 11701, Mar. 23, 2013>

Article 15 (Application Mutatis Mutandis of the Patent Act, etc.)

@Articles 3, 4, 8, 9, 10 (1), (2) and (4), 13, 14 and 17 through 24 of the Patent Act and Articles 58 (2), 59, 63, 87, 88, 92, 94 and 96 of the Civil Procedure Act shall apply mutatis mutandis to procedures for plant variety protection. In such cases, "the location of the Korean Intellectual Property Office" referred to in Article 13 of the Patent Act shall be construed as "the location of the Ministry of Agriculture, Food and Rural Affairs or the Ministry of Oceans and Fisheries, and "Article 132-3" referred to in the main sentence of Article 17 of the same Act as "Article 91", respectively. <Amended by Act No. 11701, Mar. 23, 2013>

Article 16 (Requirements for Protection of Plant Varieties)

A variety shall be entitled to the plant variety protection under this Act if the variety meets:

1. Novelty;
2. Distinctness;
3. Uniformity;
4. Stability;
5. Denomination of the variety as provided for in Article 106 (1).

Article 17 (Novelty)

(1) A plant variety shall be deemed new as provided for in subparagraph 1 of Article 16 if, on the date of filing of the application for protection of the plant variety under Article 32 (2) (on the date of filing of the first application for protection of the plant variety if a right of priority is claimed under Article 31 (1)), seeds or harvested material therefrom have not been transferred for purposes of exploitation for at least one year in Korea, and for at least four years (six years in the case of a fruit tree or forest tree) in other countries.

(2) Notwithstanding paragraph (1), a plant variety shall be deemed new as provided for in subparagraph 1 of Article 16 if:

1. The seeds of a misappropriated plant variety or harvested material therefrom are transferred;
2. The seeds of a plant variety or harvested material therefrom are transferred to transfer an entitlement to plant variety protection;
3. The breeder accepts the seeds of a plant variety or harvested material therefrom after having transferred the seeds of the plant variety or harvested material therefrom for purposes of propagating the seed and have them propagated;
4. The seeds of a plant variety or harvested material therefrom are transferred for field cultivation experiments, quality inspections or small-scale processing experiments to assessing the plant variety;
5. Where the seeds of a plant variety or harvested material therefrom are transferred for inspections to preserve biological resources or for registration on the national catalog of varieties (hereinafter referred to as "catalog of varieties") under Article 15 of the Seed Industry Act;
6. Where by-products or surplus products produced by an act falling under any of subparagraphs 3 through 5 are transferred without using the denomination of the relevant plant variety.

Article 18 (Distinctness)

(1) A plant variety shall be deemed distinct as provided for in subparagraph 2 of Article 16 if it is clearly distinguishable from any other plant variety, the existence of which is publicly known on the date of filing of the application for protection of the plant variety under Article 32 (2) (on the date of filing of the first application for protection of the plant variety if a right of priority is claimed under Article 31 (1)).

(2) A plant variety, the existence of which is publicly known as referred to in paragraph (1) means any of the following plant varieties: Provided, That where a plant variety, the existence of which is publicly known contrary to the will of the person entitled to protection of the plant variety, such plant variety shall be excluded: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. A plant variety in circulation;
2. A protected plant variety;
3. A plant variety registered on the catalog of varieties;
4. A plant variety registered with an association related to the seed industry prescribed by joint ordinance.

(3) In cases under paragraph (2) 2 or 3, a plant variety for which an application is filed to protect the plant variety or to register on the catalog of varieties shall be deemed a plant variety, the existence of which is publicly known from the date of filing of the application: Provided, That a plant variety that is not protected under this Act or is not registered on the catalog of varieties shall be excluded.

Article 19 (Uniformity)

A plant variety shall be deemed uniform as provided for in subparagraph 3 of Article 16 if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in its relevant characteristics.

Article 20 (Stability)

A plant variety shall be deemed stable as provided for in subparagraph 4 of Article 16 if its relevant characteristics remain unchanged after repeated propagation (at the end of each cycle of propagation in the case of a particular cycle of propagation, such as a first filial generation hybrid).

Article 21 (Persons Entitled to Plant Variety Protection)

- (1) A breeder or his/her successor shall be entitled to plant variety protection, as prescribed by this Act.
- (2) If at least two breeders jointly breed a plant variety, a right by which plant variety is protected shall be jointly owned.

Article 22 (Aliens' Capacity to Enjoy Rights)

An alien among expatriates shall have a plant variety right or a right by which a plant variety is protected only if:

1. A country to which the alien belongs acknowledges the plant variety right or a right by which a plant variety is protected for nationals of the Republic of Korea under the same conditions as for the nationals of such country;
2. A country to which the alien belongs acknowledges the plant variety right or a right by which a plant variety is protected for nationals of the Republic of Korea under the same conditions as for nationals of such country if the Republic of Korea acknowledges the plant variety right or a right by which a plant variety is protected for the alien;
3. The plant variety right or a right by which a plant variety is protected is acknowledged pursuant to treaties or those corresponding thereto (hereinafter referred to as "treaties, etc.").

Article 23 (Applications for Plant Variety Protection by Persons without Rights and Protection of Lawful Holders of Rights)

Where a person, other than a successor to a right by which a plant variety is protected, or a person who deceives that a right by which a plant variety is protected belongs to him/her (hereinafter referred to as "person without rights") files an application for protection of a plant variety, an application for plant variety protection filed by a lawful holder of rights after a person without rights files an application for plant variety protection shall be deemed filed at the time the person without rights files an application for plant variety protection: Provided, That this shall not apply where the lawful holder of rights files an application for plant variety protection after 30 days from the date the person without rights is served a certified copy of the decision of refusal pursuant to Article 42 (3).

Article 24 (Plant Variety Protection for Persons without Rights and Protection of Lawful Holders of Rights)

Where an adjudication invalidating plant variety protection for reasons provided for in Article 92 (1) 2 becomes final and conclusive, an application for plant variety protection filed by a lawful holder of rights after filing of such application for plant variety protection shall be deemed filed at the time of such application for plant variety protection becomes invalid is filed: Provided, That this shall not apply where an application for plant variety protection is filed after two years from the date such plant variety

protection is published in the official report pursuant to Article 54 (4), or an application for plant variety protection is filed after 30 days from the date adjudication becomes final and conclusive.

Article 25 (First-Come, First-Served Basis)

(1) Where at least two applications for plant variety protection for the same plant variety are filed on different days, only the person who first files an application for plant variety protection shall be entitled to plant variety protection.

(2) Where at least two applications for plant variety protection for the same plant variety are filed on the same day, a person determined by those who intend to obtain plant variety protection (hereinafter referred to as "applicant for plant variety protection") by agreement shall be entitled to plant variety protection. In such cases, where no agreement is reached or reaching an agreement is impossible, no applicant for plant variety protection shall be entitled to such plant variety protection.

(3) Where an application for plant variety protection become invalid or is withdrawn, such application for plant variety protection shall be deemed not to have existed ab initio for purposes of paragraph (1) or (2).

(4) An application for plant variety protection filed by a person who is neither breeder nor successor to a plant variety right shall be deemed not to have existed ab initio for purposes of paragraph (1) or (2).

(5) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall require an applicant for plant variety protection to report the results of consultation within a prescribed period in cases under paragraph (2); and where no report is filed within such period, no agreement shall be deemed reached under paragraph (2). *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 26 (Transfer, etc. of Plant Variety Rights)

(1) Plant variety rights can be transferred.

(2) No plant variety right shall be the subject of a pledge right.

(3) Where a plant variety right is jointly owned, none of the joint owners shall transfer his/her share unless if he/she obtains consent from the other joint owners.

Article 27 (Succession to Plant Variety Rights)

(1) Where a person who has succeeded to a right by which protection of a relevant plant variety is given before he/she files an application for plant variety protection fails to file an application for the plant variety protection, he/she shall not asset his/her right against a third party.

(2) Where at least two applications for plant variety protection are filed on the same day for a plant variety right by persons who have succeeded to a right of the same person, effect shall occur only to a person determined by mutual agreement of the applicants for plant variety protection.

(3) Where an applicant for plant variety protection fails to report on the change of title, succession to a plant variety right after filing of the application for plant variety protection shall not take effect except in the case of inheritance or other general succession.

(4) Where a person inherits a plant variety right or inherits a right of general succession, the successor shall, without delay, report on the intent to the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries, as prescribed by joint ordinance. *<Amended by Act No. 11701, Mar. 23,*

2013>

(5) Where at least two reports are filed on the inheritance of a plant variety right inherited from the same person on the same day, effect shall occur only to a person determined by mutual agreement of the reporters.

(6) Article 25 (5) shall apply mutatis mutandis to paragraphs (2) and (5).

Article 28 (Breeding, etc. by Public Officials in Course of Performing Duties)

(1) Where a plant variety bred by a public official belongs to the duties of the State or a local government and the breeding of the plant variety belongs to the current or former duties of a public official (hereinafter referred to as "breeding in the course of performing duties"), the public official's entitlement to plant variety protection shall be succeeded to by the State or the local government: Provided, That the relevant right shall be succeeded to by an organization exclusively in charge of technical transfer and commercialization established under Article 11 (1) of the Technology Transfer and Commercialization Promotion Act (hereinafter referred to as "exclusively responsible organization") in the case of breeding in the course of performing duties by school personnel of national schools or public schools under the Higher Education Act.

(2) The disposition and management of plant variety rights of plant varieties to which the State succeeds under paragraph (1) shall be in charge of the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries, notwithstanding Article 8 of the State Property Act. <Amended by Act No. 11701, Mar. 23, 2013>

(3) Matters necessary for the disposition and management of plant variety rights under paragraph (2) shall be prescribed by Presidential Decree.

Article 29 (Compensation, etc. for Public Officials for Breeding in Course of Performing Their Duties)

(1) Where the State, local government or exclusively responsible organization succeeds to a plant variety bred by a public official in the course of performing duties pursuant to Article 28 (1), it shall pay just compensation to him/her.

(2) Standards for compensation under paragraph (1), methods of payment and other matters necessary for compensation shall be prescribed by Presidential Decree.

Article 30 (Filing Applications for Plant Variety Protection)

(1) An applicant for plant variety protection shall enter the following matters in the application for plant variety protection set by joint ordinance and file it with the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries: <Amended by Act No. 11701, Mar. 23, 2013>

1. Name and address of the applicant for plant variety protection (in the case of a corporation, its name, name of its representative and the location of its business office);
2. Name and address of the agent if the applicant for plant variety protection has an agent or the address of his/her business office;
3. Name and address of the breeder;

4. Scientific name or common name of the plant to which the plant variety belongs;
 5. Denomination of the plant variety;
 6. Year, month and date of filing;
 7. Matters referred to in Article 31 (3) (only applicable where a right of priority is claimed).
- (2) An application for plant variety protection filed under paragraph (1) shall be accompanied by the following: *<Amended by Act No. 11701, Mar. 23, 2013>*
1. Descriptions about the characteristics of the plant variety and process of breeding the plant variety;
 2. Photographs of the plant variety;
 3. Samples of seeds. In such cases, where samples of seeds are saplings, trophosomes or aquatic plants, the timing for, and methods of submission, other matters shall be prescribed by joint ordinance;
 4. A certificate proving the payment of fees for filing the application for plant variety protection.
- (3) Where a plant variety right is jointly owned under Article 21 (2), all joint owners shall file an application for plant variety protection.
- (4) Matters necessary for writing descriptions under paragraph (2) 1 shall be prescribed by Presidential Decree.

Article 31 (Claim for Right of Priority)

- (1) Where a national of a foreign country that acknowledges an ROK national's right of priority to an application for plant variety protection claims a right of priority after filing an application for plant variety protection in the Republic of Korea for the same plant variety as that he/she filed an application for plant variety protection in the foreign country, the filing date of the application for plant variety protection in such foreign country shall be deemed the filing date of the application for plant variety protection in the Republic of Korea for purposes of Article 25. The same shall apply where an ROK national files an application for plant variety protection in a foreign country that acknowledges a right of priority to an application for plant variety protection and files an application for plant variety protection in the Republic of Korea.
- (2) A person who intends to claim a right of priority pursuant to paragraph (1) shall not claim a right of priority unless he/she files an application for plant variety protection within one year from the following date of the filing date of the first application for plant variety protection.
- (3) A person who intends to claim a right of priority pursuant to paragraph (1) shall fill in the application for plant variety protection with the intent, name of the country in which the first application for plant variety protection is filed and the filing date of the first application for plant variety protection.
- (4) A person who has claimed a right of priority pursuant to paragraph (3) shall submit a certified copy of the application for plant variety protection acknowledged by the government of a country in which he/she filed the first application for plant variety protection within 90 days from the filing date of an application for plant variety protection under Article 32 (2).
- (5) A person who has claimed a right of priority pursuant to paragraph (3) may request the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries to postpone the examination

of the relevant plant variety for three years from the filing date of the first application for plant variety protection, and the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall accept the request unless good cause exists: Provided, That where the person who has claimed a right of priority abandons the first application for plant variety protection or a decision of refusal by the country in which an application for plant variety protection filed becomes final and conclusive, the plant variety may be examined even before the postponed date of examination of the application for plant variety protection at the request of the person who has claimed a right of priority. <Amended by Act No. 11701, Mar. 23, 2013>

Article 32 (Acceptance, etc. of Applications)

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall, without delay, accept an application for plant variety protection for a plant variety applied for plant variety protection pursuant to Article 30 (1) (hereinafter referred to as "applied plant variety"); where the application for plant variety protection satisfies all matters provided for in Article 30 and is corrected for the reason of subparagraph 2 of Article 9, he/she shall enter it in the register of applications for plant variety protection. <Amended by Act No. 11701, Mar. 23, 2013>

(2) The date of acceptance of an application for plant variety protection under paragraph (1) shall be deemed the filing date of the application for plant variety protection.

Article 33 (Correction of Applications)

(1) An applicant for plant variety protection may correct his/her application for plant variety protection within the extent that does not change the intent of contents first entered in the application for plant variety protection by the following applicable time:

1. Where a notice of a reason for refusal is issued under Article 42: A period for which a written opinion on the notice of a reason for refusal shall be submitted;
2. Where a decision on plant variety protection is made under Article 43: Before a certified copy of the decision on plant variety protection is served;
3. Where an application for adjudication against a decision of refusal is lodged under Article 91: Within 30 days from the date it is lodged.

(2) Methods of correcting applications for plant variety protection under paragraph (1) and other matters shall be prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 34 (Exclusion from Change of Intent of Application)

Where any of the following applies to a correction made under Article 33, the intent of an application for plant variety protection shall be deemed unchanged:

1. Where typos are corrected;
2. Where ambiguous contents are clarified;
3. Other cases prescribed by Presidential Decree.

Article 35 (Rejecting Corrections)

(1) If a correction made after filing an application for plant variety protection changes the intent of the application, an examiner shall reject the correction by decision, and notify the applicant for plant variety protection of such fact without delay.

(2) The decision of rejection under paragraph (1) shall be made in writing and the reason for such decision shall be stated.

(3) No objection shall be filed against a decision of rejection made under paragraph (1): Provided, That this shall not apply where the decision of rejection is pending in adjudication under Article 91.

Article 36 (Examinations by Examiners)

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall require examiners to examine applications for plant variety protection filed under Article 30 and applications for the registration of denominations of plant varieties filed under Article 109. *<Amended by Act No. 11701, Mar. 23, 2013>*

(2) Matters necessary for qualifications for examiners shall be prescribed by Presidential Decree.

Article 37 (Making Applications Public)

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall publish applications for plant variety protection entered, pursuant to Article 32 (1), in the register of applications for plant variety protection in the official report of plant variety protection under Article 53 (hereinafter referred to as "official report") and make the applications public. *<Amended by Act No. 11701, Mar. 23, 2013>*

(2) Where applications are made public under paragraph (1), anyone may provide the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries with information with an intent that the relevant plant variety is not entitled to protection for a violation of Article 16, 21 or 22, and evidence. *<Amended by Act No. 11701, Mar. 23, 2013>*

(3) Matters to be published in the official report when applications are made public pursuant to paragraph (1) shall be prescribed by joint ordinance. *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 38 (Right of Provisional Protection)

(1) An applicant for plant variety protection shall have an exclusive right to exploit the applied plant variety as a business from the date the application is made public.

(2) Where any of the following applies to an application for plant variety protection after the application is made public, no right provided for in paragraph (1) shall be deemed to have arisen ab initio:

1. Where the application for plant variety protection is abandoned, withdrawn or invalidated;

2. Where a decision to refuse the application for plant variety protection becomes final and conclusive.

(3) Where a person having a right under paragraph (1) exercises his/her right and any subparagraph of paragraph (2) applies to the application for plant variety protection, he/she shall be liable for compensation for damage caused by the exercise of his/her right to other parties.

(4) Articles 83 through 89 shall apply mutatis mutandis to the right under paragraph (1).

Article 39 (Exercise of Right of Provisional Protection and Suspension of Litigation Procedures)

(1) Where a lawsuit on an infringement of the right under Article 38 (1) is lodged or an application for provisional attachment or provisional disposition is filed, the court may suspend legal proceedings by decision by the time a decision or adjudication on the application for plant variety protection becomes final and conclusive upon request of the relevant party or ex officio, if deemed necessary to do so.

(2) No one shall file an objection to a decision on the application under paragraph (1).

(3) If a reason for suspension under paragraph (1) ceases to exist or other circumstances change, the court may cancel the decision under paragraph (1).

Article 40 (Examination of Applied Plant Varieties)

(1) Examiners shall examine whether applied plant varieties meet the requirements provided for in Articles 17 through 20.

(2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may entrust inspections or tests for examinations under paragraph (1) to research institutes, universities, or agencies or organizations deemed appropriate to conduct inspections or tests. *<Amended by Act No. 11701, Mar. 23, 2013>*

(3) Matters necessary for the methods of, standards and procedures for examinations under paragraph (1) shall be prescribed by joint ordinance. *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 41 (Submission, etc. of Data)

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may require an applicant for plant variety protection to submit data, such as seed samples if necessary for examinations under Article 40 (1). *<Amended by Act No. 11701, Mar. 23, 2013>*

(2) Applicants in receipt of an order to submit data under paragraph (1) shall comply with the order unless good cause exists.

Article 42 (Decisions of Refusal and Notification of Reasons for Refusal)

(1) An examiner shall decide to refuse the application for plant variety protection in any of the following cases (hereinafter referred to as "reason for refusal"):

1. Where it is not entitled to plant variety protection for a violation of Article 4, 16, 21, 22, 25 (1) or (2), 27 (2) or (5), 28 (1), 30 (3) or 41 (2);
2. Where a person without rights files an application;
3. Where it violates any relevant treaty, etc.

(2) Where an examiner makes a decision of refusal pursuant to paragraph (1), he/she shall, in advance, notify the applicant for plant variety protection of the reason for refusal, and give the applicant an opportunity to submit a written opinion within a prescribed period.

(3) If a decision of refusal is made under paragraph (1), the examiner shall serve a certified copy of the decision of refusal on the applicant for plant variety protection, and publish the decision of refusal in the official report.

(4) Matters to be published in the official report about decisions of refusal under paragraph (3) and other matters shall be prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 43 (Decisions of Plant Variety Protection)

(1) If no reason for refusing an application for plant variety protection is found, an examiner shall make a decision of plant variety protection.

(2) The decision of plant variety protection under paragraph (1) shall be made in writing and the reasons therefor shall be stated.

(3) Where a decision of plant variety protection is made under paragraph (1), the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall serve a certified copy of the decision of plant variety protection on the applicant for plant variety protection and publish the decision of plant variety protection in the official report. <Amended by Act No. 11701, Mar. 23, 2013>

(4) Matters to be published in the official report about decisions of plant variety protection under paragraph (3) and other matters shall be prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 44 (Suspension of Examinations or Legal Proceedings)

(1) Procedures for examination of an application for plant variety protection may be suspended until adjudication becomes final and conclusive or legal proceedings are completed if necessary for examining the application for plant variety protection.

(2) The court may suspend legal proceedings until a decision becomes final and conclusive, if necessary in relation to the lawsuit.

Article 45 (Application Mutatis Mutandis of the Patent Act)

Subparagraphs 1 through 5 and 7 of Article 148 of the Patent Act shall apply mutatis mutandis to the examination of applications for plant variety protection.

Article 46 (Plant Variety Protection Fees)

(1) A person who intends to register the establishment of a plant variety right under Article 54 (1) shall pay fees.

(2) The holder of a plant variety right shall annually pay plant variety protection fees to the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries while the plant variety right is valid. <Amended by Act No. 11701, Mar. 23, 2013>

(3) Interested parties in a plant variety right may pay plant variety protection fees regardless of the will of a person required to pay such fees under paragraph (1) or (2).

(4) Where an interested party in a plant variety right pays plant variety protection fees under paragraph (3), it may request the person required to pay such fees to reimburse expenses within such person's current profit range.

(5) Matters necessary in relation to the amount of plant variety protection fees, method of payment, and period for payment under paragraph (1) or (2) and other matters shall be prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 47 (Payment of Plant Variety Protection Fees after Expiration of Period for Payment)

(1) A person who intends to register the establishment of a plant variety right or the holder of a plant variety right may pay plant variety protection fees within six months even after the expiration of the period for payment prescribed under Article 46 (5).

(2) If plant variety protection fees are paid under paragraph (1), an amount determined by joint ordinance within two times the plant variety protection fees determined under Article 46 (5), shall be paid. *<Amended by Act No. 11701, Mar. 23, 2013>*

(3) If plant variety protection fees are not paid within a prescribed period under paragraph (1), an application for plant variety protection shall be deemed abandoned by a person who intends to register the establishment of a plant variety right; the plant variety right of its holder shall be deemed lapsed, retroactively on the date following the expiration of the valid period for which the plant variety protection fees paid under Article 46 (1) or (2).

Article 48 (Supplement of Plant Variety Protection Fees)

(1) Where a person who intends to register the establishment of a plant variety right or the holder of a plant variety right fails to pay some of the plant variety protection fees within the period specified under Article 46 (5) or 47 (1), the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall require him/her to supplement the plant variety protection fees. *<Amended by Act No. 11701, Mar. 23, 2013>*

(2) A person in receipt of an order to supplement fees under paragraph (1) may supplement fees within one month after receipt of such order.

(3) A person who supplements plant variety protection fees pursuant to paragraph (2) shall pay an amount determined by joint ordinance within two times the amount payable if any of the following cases: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. Where plant variety protection fees are supplemented after the expiration of the period for payment specified under Article 46 (5);
2. Where plant variety protection fees are supplemented after the expiration of the period for payment specified under Article 47 (5) (hereinafter referred to as "additional period for payment").

Article 49 (Applications for Plant Variety Protection, Reinstatement of Plant Variety Rights, etc. by Additional Payment or Supplementation of Plant Variety Protection Fees)

(1) Where a person who intends to register the establishment of a plant variety right or the holder of a plant variety right fails to pay plant variety protection fees within the additional period for payment or fails to supplement fees within the period for supplementation under Article 48 (2) for reasons not attributable to him/her, he/she may pay or supplement the plant variety protection fees within 14 days from the date such reason ceases to exist: Provided, That this shall not apply where six months pass from the expiration date of the additional period for payment or the expiration date of period for supplementation, whichever comes later.

(2) Notwithstanding Article 47 (3), a person who pays plant variety protection fees or supplements plant variety protection fees shall be deemed not to have abandoned his/her application for plant variety protection, and the plant variety right shall be deemed to have existed retroactively from the expiration of the period for payment of plant variety protection fees.

(3) Where a plant variety right to a protected plant variety being exploited is extinguished for failure to pay plant variety protection fees within the additional period for payment or to supplement such fees within the period for supplementation specified under Article 48 (2), the holder of the plant variety right may file an application for reinstating the extinguished right after paying an amount three times the plant variety protection fees set under Article 46 within three months after the expiration of the additional period for payment or period for supplementation. In such cases, the plant variety right shall be deemed to have existed retroactively from the expiration of the period for payment of plant variety protection fees.

(4) No application for plant variety protection or plant variety right under paragraph (2) or (3) shall be effective to another person's exploitation of a protected plant variety during the following periods (hereafter referred to as "period of limited effect" in this Article):

1. A period from the date of expiration of the additional period for payment to the date payment is made;
2. A period from the date of expiration of the additional period for payment to the date supplementation is made.

(5) A person who runs or prepares to run a business exploiting a plant variety for which an application for plant variety protection is filed under paragraph (2) or (3) in good faith in Korea or which has a plant variety right during the period of limited effect shall have the non-exclusive license of the plant variety right for which an application for plant variety protection is filed within the scope of purposes of the plant variety being exploited or within the scope of purposes of the business being prepared.

(6) A person who has a non-exclusive license pursuant to paragraph (5) shall make reasonable payments to the holder of the relevant plant variety right or the holder of the relevant exclusive license.

Article 50 (Exemption from Plant Variety Protection Fees)

Notwithstanding Article 46, plant variety protection fees shall be exempt in any of the following circumstances: <Amended by Act No. 11701, Mar. 23, 2013>

1. Where the State or a local government needs to pay plant variety protection fees in order to register the establishment of a plant variety right;
2. Where the State or a local government needs to pay plant variety protection fees during the period of a plant variety right;
3. Where a beneficiary as defined in Article 5 of the National Basic Living Security Act needs to pay plant variety protection fees in order to register the establishment of a plant variety right;
4. Other cases prescribed by joint ordinance.

Article 51 (Refund of Fees for Plant Variety Protection)

Plant variety protection fees are refundable only if they are paid erroneously.

Article 52 (Plant Variety Register)

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall keep a plant variety register and register the following matters: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. Establishment, transfer and lapse of plant variety rights or limitation on the disposition thereof;
2. Establishment, preservation, transfer, change and lapse of exclusive licenses or non-exclusive licenses, or limitation on the disposition thereof;
3. Establishment, transfer, change and lapse of a pledge right on a plant variety right, exclusive license or non-exclusive license.

(2) Unless otherwise expressly provided for in paragraph (1), matters to be registered, procedures of registration, and other matters necessary for registration shall be prescribed by joint ordinance. *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 53 (Official Reports on Plant Variety Protection)

The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall publish an official report on plant variety protection each month. *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 54 (Registration of Establishment of Plant Variety Rights)

(1) A plant variety right shall come into existence by completing the registration of establishment pursuant to Article 52 (1) 1.

(2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall register the establishment of plant variety rights in any of the following circumstances: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. When plant variety protection fees are paid under Article 46 (1);
2. When plant variety protection fees are paid after the expiration of the period of payment under Article 47 (1);
3. When plant variety protection fees are supplemented under Article 48 (2);
4. When plant variety protection fees are paid or supplemented under Article 49 (1);
5. When plant variety protection fees are exempt under Article 50.

(3) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall keep and manage a specified quantity of samples of seeds of a plant variety, the plant variety right of which is established and registered pursuant to paragraph (2), as determined and announced by the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries. In such cases, where the samples of seeds are saplings, trophosomes or aquatic plants, the timing for, and methods of submission, other matters shall be prescribed by joint ordinance. *<Amended by Act No. 11701, Mar. 23, 2013>*

(4) Where the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries has registered the establishment of a plant variety right pursuant to paragraph (2), he/she shall publish the following matters in the official report: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. Name and address of the holder of the plant variety right (in the case of a corporation, its name, name of its representative or location of its business office);
2. Registration number of the plant variety right;
3. Year, month and date of the registration of establishment of the plant variety right;
4. Duration of the plant variety right.

(5) When the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries has registered the establishment of a plant variety right pursuant to paragraph (2), he/she shall, without delay, issue a certificate of plant variety right to the holder of the plant variety right in the form determined by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 55 (Duration of Plant Variety Rights)

The duration of a plant variety right shall be 20 years from the date the establishment of the plant variety right is registered: Provided, That the duration of a plant variety right of fruit trees and standing trees shall be 25 years.

Article 56 (Effect of Plant Variety Rights)

(1) The holder of a plant variety right shall have an exclusive right to exploit the protected plant variety as a business: Provided, That where an exclusive license of the plant variety right is established, this shall not apply to the extent that the holder of the exclusive license has an exclusive right to exploit the protected plant variety pursuant to Article 61 (2).

(2) In addition to the right granted under paragraph (1), the holder of a plant variety right shall also have an exclusive right to exploit, as a business, harvested material from the seeds of a protected plant variety using the misappropriated seeds without permission of the holder of a plant variety right, or to exploit products directly produced from such harvested material: Provided, That this shall not apply to a product directly manufactured by a person who has no knowledge that he/she does not have a just right.

(3) A plant variety right granted under paragraph (1) or (2) shall be also effective to the following plant varieties:

1. Any plant variety essentially derived from a protected plant variety (limited to a protected plant variety not essentially derived from other plant varieties);
2. Any plant variety not clearly distinguishable from a protected plant variety under Article 18;
3. Any plant variety, the seeds of which require the repeated use of a protected plant variety.

(4) For purposes of paragraph (3) 1, a plant variety that is derived from an initial plant variety or existing derived plant variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial plant variety and is clearly distinguishable from the initial plant variety, but the essential characteristics of which conform to the initial plant variety in the expression of the essential characteristics, except for differences in characteristics that result from the act of derivation, shall be deemed a derived plant variety.

Article 57 (Scope where Plant Variety Right does not Extend)

(1) A plant variety right under Article 56 shall not be effective in any of the following circumstances:

1. Exploitation of a protected plant variety for private consumption and non-commercial purposes;
2. Exploitation of a protected plant variety for experiment or research;
3. Exploitation of a protected plant variety to breed other plant varieties.

(2) Where a farmer or fisherman saves seeds to re-sow them for production, the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may limit the plant variety right to such plant variety. <Amended by Act No. 11701, Mar. 23, 2013>

(3) The scope, procedures and methods of limitation under paragraph (2) and other necessary matters shall be prescribed by Presidential Decree.

Article 58 (Restriction on Effects of Plant Variety Rights)

No plant variety right under Article 56 shall be effective to the seeds of a protected plant variety sold or circulated in the Republic of Korea, harvested material therefrom and products directly produced from such harvested material by the holder of the plant variety right, exclusive license or non-exclusive license except for any of the following:

1. Propagating the seeds of a protected plant variety using the seeds of the protected plant variety sold or circulated in the Republic of Korea, harvested material therefrom and products directly produced from such harvested material;
2. Exporting the seeds of a protected plant variety, harvested material therefrom and products directly produced from such harvested material for propagation.

Article 59 (Prohibition against Restriction on Plant Variety Rights)

The Government shall not impose any limitation on the exploitation of plant variety rights unless otherwise expressly provided for in this Act.

Article 60 (Transfer, etc. of Plant Variety Rights)

(1) Plant variety rights may be transferred.

(2) Where a plant variety right is jointly owned, none of the joint owners shall perform any of the following acts unless he/she obtains consent from other owners:

1. Transferring co-owned share or establishing a pledge right to co-owned share;
2. Establishing an exclusive license of the relevant plant variety right or permitting a non-exclusive license.

(3) Where a plant variety right is jointly owned, each owner may exploit the relevant protected plant variety without obtaining consent from other owners unless otherwise specifically stipulated in the agreement among them.

Article 61 (Exclusive Licenses)

(1) The holder of a plant variety right may establish an exclusive license of the plant variety right for any third person.

(2) The holder of an exclusive license established under paragraph (1) shall have the right exclusive to exploit the relevant protected plant variety as a business within the extent specified by such establishment.

(3) The holder of an exclusive license shall not transfer the exclusive license without obtaining consent from the holder of the plant variety right except in any of the following circumstances:

1. Where it is transferred together with exploitation business;
2. Inheritance;
3. Other general succession.

(4) The holder of an exclusive license shall not establish a pledge right to the exclusive license or grant a non-exclusive license unless he/she obtains consent from the holder of a plant variety right.

(5) Article 60 (2) and (3) shall apply mutatis mutandis to exclusive licenses.

Article 62 (Effect of Registration of Plant Variety Rights and Exclusive Licenses)

(1) None of the following matters shall take effect unless entered in the plant variety register under Article 52:

1. Lapse of a plant variety right following transfer (excluding inheritance or other general succession; hereafter the same shall apply in this Article) or abandonment thereof or limitation on the disposition thereof;
2. Establishment, transfer, change, lapse of an exclusive license or limitation on the disposition thereof;
3. Establishment, transfer, lapse of a pledge right to a plant variety right or exclusive license, or limitation on the disposition thereof.

(2) A person who succeeds to a plant variety right, exclusive license or pledge right or takes on general succession shall report on the intent to the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries within 30 days from the date such ground arises, as prescribed by joint ordinance.

<Amended by Act No. 11701, Mar. 23, 2013>

Article 63 (Non-Exclusive Licenses)

(1) The holder of a plant variety right may grant a non-exclusive license of the plant variety right to any third person.

(2) The holder of a non-exclusive license granted under paragraph (1) shall be entitled to exploit the relevant protected plant variety as a business, as prescribed by this Act, or within the extent specified by such granting.

(3) A non-exclusive license granted under Article 67 may be transferred only if transferred together with exploitation business.

(4) A non-exclusive license, other than non-exclusive licenses granted under Article 67, shall not be transferred without obtaining consent from the holder of a plant variety right (referring to the holder of a plant variety right and the holder of an exclusive license in the case of a non-exclusive license with regard to an exclusive license) except for transfer together with exploitation business, inheritance or general succession.

(5) No pledge right shall be established with respect to a non-exclusive license, other than non-exclusive licenses granted under Article 67, without obtaining consent from the holder of a plant variety right (referring to the holder of a plant variety right and the holder of an exclusive license in the case of a non-

exclusive license with regard to an exclusive license).

(6) Article 60 (2) and (3) shall apply mutatis mutandis to non-exclusive licenses.

Article 64 (Non-Exclusive Licenses Based on Prior Use)

A person who runs or prepares to run a business of exploiting a protected plant variety in the Republic of Korea as he/she learns of it from another person who breeds or has bred the protected plant variety without the knowledge of the details of the protected plant variety being applied for plant variety protection as at the time an application for the plant variety protection is filed, he/she shall have a non-exclusive license of the plant variety protection of which application is filed, within the scope of the purpose of such business.

Article 65 (Non-Exclusive Licenses by Exploitation Prior to Registration of Requests for Nullity Adjudication)

(1) Where any of the following persons runs or prepares to run a business of exploiting a protected plant variety in the Republic of Korea without knowing the relevant plant variety right corresponds to nullity before the registration of a request for nullity adjudication of such plant variety right, he/she shall have a non-exclusive license of the plant variety right or exclusive license existing as at the time the plant variety right is nullified within the scope of the purpose of such business:

1. The holder of the initial plant variety right where one of at least two plant variety rights to the same plant variety is nullified;
2. The holder of the initial plant variety right where a plant variety right is nullified and a plant variety right is granted to the person having the lawful right to the same plant variety;
3. A person who has obtained and registered an exclusive license, non-exclusive license or non-exclusive license of such exclusive license as at the time of filing a request for nullity adjudication on the nullified plant variety right in cases falling under subparagraph 1 or 2: Provided, That no registration is required where Article 74 (2) is applicable.

(2) A person who acquires a non-exclusive license under paragraph (1) shall make a reasonable payment to the holder of the relevant plant variety right or exclusive license.

Article 66 (Non-Exclusive Licenses following Transfer of Plant Variety Right due to Exercise of Pledge Right)

Where the holder of a plant variety right runs a business of exploiting the relevant protected plant variety before establishing a pledge right to the plant variety right, he/she shall have a non-exclusive license of the plant variety right even if the plant variety right is transferred by auction, etc. In such cases, the holder of the plant variety right shall make a reasonable payment to the person to whom the plant variety right is transferred by auction, etc.

Article 67 (Arbitration on Establishment of Non-Exclusive Licenses)

(1) Where any of the following applies to a protected plant variety, a person who intends to exploit the protected plant variety may request the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries to arbitrate on the establishment of a non-exclusive license (hereinafter referred to as "arbitration"): Provided, That a request for arbitration under subparagraph 1 or 2 shall be made only where

it is impossible to have consultation on granting a non-exclusive license with the holder of the relevant plant variety right or the holder of the exclusive license of the relevant protected plant variety or no agreement is reached as a result of such consultation: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. Where the protected plant variety has not been exploited in the Republic of Korea for at least three years due to any natural disaster or force majeure, or without good cause prescribed by Presidential Decree;
 2. Where the protected plant variety has not been exploited in the Republic of Korea on a substantial business scale for at least three consecutive years without good cause or fails to meet domestic demand to an appropriate degree or under appropriate conditions;
 3. Where it is necessary to non-commercially exploit the protected plant variety for urgent adjustment of supply and demand or propagation due to a war, natural disaster or calamity;
 4. Where it is necessary to exploit the protected plant variety in order to correct matters acknowledged as unfair trade practices according to judicial or administrative proceedings.
- (2) Paragraph (1) shall not apply to a protected plant variety for which three years have not passed from the date of registration of the establishment of a plant variety right.

(3) When the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries conducts arbitration, he/she shall examine whether the establishment of non-exclusive license is necessary for each case of request. *<Amended by Act No. 11701, Mar. 23, 2013>*

(4) When the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries conducts arbitration, he/she shall attach a condition that the non-exclusive license shall be implemented with the main purpose of supply meeting domestic demand: Provided, That this shall not apply where arbitration is conducted for a request made under paragraph (1) 4. *<Amended by Act No. 11701, Mar. 23, 2013>*

(5) When the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries conducts arbitration under paragraph (1) 4, he/she may consider the intent that the arbitration award is to correct unfair trade practices in determining the price. *<Amended by Act No. 11701, Mar. 23, 2013>*

(6) When the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries conducts arbitration, he/she shall submit the relevant case for deliberation by the Seed Commission established under Article 118. *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 68 (Service of Requests for Arbitration)

Upon receipt of a request for arbitration under Article 67 (1), the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall serve a copy of the request on the holder of a plant variety right or the holder of an exclusive license relating to the request or a person with a registered right concerning the relevant plant variety right, and give such person an opportunity to submit a reply or written opinion within a specified period. *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 69 (Methods of Arbitration, etc.)

(1) Arbitration shall be made in writing and reasons therefor shall be stated.

(2) Arbitration made under paragraph (1) shall clearly state the following matters:

1. Scope and duration of a non-exclusive license;
2. Price, and the method and time of payment.

(3) Where the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries receives a request for an extension of the duration of a non-exclusive license under paragraph (2) 1, he/she shall not reject the request if reasons for establishing an existing non-exclusive license still exist.

<Amended by Act No. 11701, Mar. 23, 2013>

Article 70 (Service of Certified Copy of Arbitration Award)

(1) When the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries conducts arbitration, he/she shall serve a certified copy of the arbitration award on interested parties.

<Amended by Act No. 11701, Mar. 23, 2013>

(2) When a certified copy of the arbitration award is served on interested parties under paragraph (1), an agreement between interested parties shall be deemed reached as stated in the arbitration award.

Article 71 (Deposit of Price)

A person who has to pay a price under Article 69 (2) 2 shall deposit the price in any of the following circumstances:

1. Where the person to receive the price refuses to, or unable to, receive it;
2. Where a lawsuit concerning the price is lodged under Article 104 (1);
3. Where a pledge right is established on the relevant plant variety right or exclusive license: Provided, That this shall not apply where consent is obtained from the pledgee.

Article 72 (Invalidation, etc. of Arbitration)

(1) If a person given arbitration under Article 69 (1) fails to pay or deposit a price (referring to the first payment where the price is paid periodically or in installments) within the period of payment set under Article 69 (2) 2, the arbitration shall become void.

(2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may revoke arbitration at the request of any of the interested parties or ex officio in any of the following circumstances: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. Where a person given arbitration fails to exploit the non-exclusive license;
2. Where reasons for arbitrating on the establishment of the non-exclusive license right have ceased and are not to re-arise;
3. Where a person who is given arbitration and expected to pay the price periodically or in installments fails to make payments after the first installment payment or deposit the price.

(3) Articles 67 (6), 68, 69 (1) and 70 (1) shall apply mutatis mutandis to the revocation under paragraph (2).

(4) If arbitration is revoked under paragraph (2), the relevant non-exclusive license shall lapse from that moment onward.

Article 73 (Limitations on Reasons for Objections to Arbitration)

Where an administrative appeal is filed pursuant to Article 3 (1) of the Administrative Appeals Act or litigation for revocation is filed pursuant to the Administrative Litigation Act with respect to arbitration, the price determined by the arbitration shall not be the grounds for objection to such arbitration.

Article 74 (Effect of Registration of Non-Exclusive Licenses)

(1) If a non-exclusive license is registered, it shall be also effective to a person who acquires the plant variety right or exclusive license after the registration.

(2) A non-exclusive license granted under Articles 49 (5), 64 through 66 and 102 shall take effect under paragraph (1) even if the license is not registered.

(3) The transfer, change or lapse of a non-exclusive license or the establishment, transfer, change or lapse of a pledge right to a non-exclusive license or limitation on the disposition thereof shall not be asserted against a third party unless registered.

Article 75 (Restriction on Abandoning Plant Variety Rights, etc.)

(1) The holder of a plant variety right shall not abandon the plant variety right unless he/she obtains consent from the exclusive license holder, pledgee or non-exclusive license holder under Article 61 (4) or 63 (1).

(2) The holder of an exclusive license shall not abandon the exclusive license unless he/she obtains consent from the pledgee or non-exclusive license holder under Article 61 (4).

(3) The holder of a non-exclusive license shall not abandon the non-exclusive license unless he/she obtains consent from the pledgee.

Article 76 (Effect of Abandonment)

If a plant variety right, exclusive license or non-exclusive license is abandoned, the plant variety right, exclusive license or non-exclusive license shall lose effect from that moment onward.

Article 77 (Pledge Rights)

Where a pledge right is established on a plant variety right, exclusive license or non-exclusive license, the pledgee shall not exploit the relevant plant variety unless otherwise specifically stipulated by a contract.

Article 78 (Subrogation of Pledge Rights)

A pledge right may be exercised for a price or goods to receive for the exploitation of a protected plant variety. In such cases, seizure shall be made before the payment or delivery thereof.

Article 79 (Revocation of Plant Variety Rights)

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may revoke a plant variety right in any of the following circumstances: Provided, That where subparagraph 2 is applicable, he/she must revoke a plant variety right: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. Where requirements provided for in Article 19 or 20 cannot be met;
2. Where the duty to maintain a protected plant variety under Article 82 is not fulfilled;
3. Where the denomination of a plant variety registered under Article 117 (1) is revoked.

(2) If a plant variety right is revoked under paragraph (1), the plant variety right shall lapse from that moment onward.

(3) Article 42 (2) through (4) shall apply mutatis mutandis to revocation under paragraph (1). In such cases, "decision of refusal" shall be construed as "revocation."

Article 80 (Lapse of Plant Variety Rights if no Inheritor Exists)

Where inheritance commences and no inheritor exists, the plant variety right shall lapse.

Article 81 (Reporting on Exploitation of Plant Variety Rights)

The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may require the holders of plant variety rights, exclusive license holders or non-exclusive license holders to report on whether they exploit the relevant protected plant variety, the scale thereof, etc. *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 82 (Duty to Maintain Protected Plant Varieties)

(1) The holder of a plant variety right shall ensure that the essential characteristics of the protected plant variety as at the registration of establishment of the plant variety right are maintained for the duration of the plant variety right.

(2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may order the holder of a plant variety right to submit data, such as seed samples necessary for testing and verifying whether the essential characteristics of the protected plant variety is maintained under paragraph (1). In such cases, upon receipt of the order, the holder of the plant variety right shall comply with such order in the absence of good cause. *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 83 (Right, etc. to Request Prohibition against Infringement of Right)

(1) The holder of a plant variety right or the exclusive license holder may request a person who infringes or is likely to infringe his/her right to prohibit or prevent such infringement.

(2) The holder of a plant variety right or the exclusive license holder may request the infringer to scrap articles that has caused an infringement, to remove equipment used for an infringement, and take other acts necessary for preventing an infringement when making a request under paragraph (1).

Article 84 (Acts Deemed Infringements)

Any of the following acts shall be deemed an infringement of a plant variety right or an exclusive license:

1. Exploiting the plant variety of another person as a business without permission of the holder of the plant variety right or the exclusive license holder;
2. Using the denomination of a plant variety, the same as, or similar to, that of the plant variety of another person for a plant variety of the genus or species to which the protected plant variety belongs.

Article 85 (Right to Claim Compensation for Damage)

(1) The holder of a plant variety right or the exclusive license holder may claim compensation for damage to a person who infringes his/her right either by intention or negligence.

(2) Articles 128 through 132 of the Patent Act shall apply mutatis mutandis to claims for compensation for damage under paragraph (1).

Article 86 (Presumption of Negligence)

A person who infringes the plant variety right or exclusive license of another person shall be presumed negligent in respect of such infringement.

Article 87 (Restoration of Business Credit of Holders, etc. of Plant Variety Rights)

Upon the request of the holder of a plant variety right or an exclusive license holder, the court may, in lieu of damages or in addition thereto, order a person who has impaired the business credit of the holder of a plant variety right or an exclusive license holder by intentionally or negligently infringing the plant variety right or exclusive license of such person to take measures necessary for restoring the business credit of the holder of the plant variety right or the exclusive license holder.

Article 88 (Marking or Labeling of Protected Plant Varieties)

The holder of a plant variety right, exclusive license holder or non-exclusive license holder may label the relevant plant variety as a protected plant variety.

Article 89 (Prohibition against False Marking)

No person shall perform any of the following acts:

1. Affixing a label on the container or package of the seeds of a plant variety, which is not protected or for which an application for plant variety protection is not filed, as if it were protected or an application for plant variety protection were filed, or affixing a misleading label thereon;
2. Indicating in business advertisements, labels, business documents, etc. a plant variety, which is not protected or for which an application for plant variety protection is not filed, as if it were protected or an application for plant variety protection were filed.

Article 90 (Plant Variety Protection Tribunal)

(1) A Plant Variety Tribunal (hereinafter referred to as the "Tribunal") shall be established within the Ministry of Agriculture, Food and Rural Affairs to take charge of adjudication and re-adjudication on plant variety protection. *<Amended by Act No. 11701, Mar. 23, 2013>*

(2) The Tribunal shall consist of up to eight plant variety protection adjudicators (hereinafter referred to as "adjudicator"), including one chairperson; one of the adjudicators, other than the chairperson, shall be a full-time adjudicator.

(3) Except as otherwise expressly provided for in paragraph (2), the composition and operation of the Tribunal and other necessary matters shall be prescribed by Presidential Decree.

Article 91 (Adjudication on Decision of Refusal or Decision of Revocation)

Where a person who is given a decision of refusal under Article 42 (1) or a decision of revocation under Article 79 is dissatisfied with such decision, he/she may request adjudication within 30 days from the date of receipt of a certified copy of such decision.

Article 92 (Adjudication of Nullity of Plant Variety Protection)

(1) Where any of the following applies to plant variety protection, a person interested in the plant variety protection or examiner may request adjudication of nullity:

1. Where Article 16, 21, 22, 25 (1) or (2), 28 (1) or 30 (3) is violated: Provided, That where adjudication of nullity is to be requested for failure to satisfy uniformity or stability provided for in subparagraph 3 or 4 of Article 16, a request for adjudication may be made only where uniformity or stability is examined based on the documents submitted by the applicant;
 2. Where the plant variety protection is granted to a person without rights;
 3. Where a treaty, etc. is violated;
 4. Where the holder of a plant variety right becomes not entitled to the plant variety right as prescribed in Article 22 after the plant variety is protected, or such plant variety protection violates a treaty, etc.
- (2) Adjudication under paragraph (1) may be requested whenever making a request is beneficial.
- (3) Where adjudication making a plant variety right null and void becomes final, the plant variety right shall be deemed not to have existed ab initio: Provided, That where adjudication making a plant variety right null and void becomes final for reasons provided for in paragraph (1) 4, the plant variety right shall be deemed not to have existed from the time it falls under the same subparagraph.
- (4) Upon receipt of a request for adjudication made under paragraph (1), a chief adjudicator shall notify the holder and exclusive license holder of the relevant plant variety right, and other persons having a registered right to the plant variety protection of the intent thereof.

Article 93 (Method of Requesting Adjudication)

(1) A person who intends to request adjudication shall include the following matters in a request for adjudication prescribed by joint ordinance and submit it to the chairperson of the Tribunal: <Amended by Act No. 11701, Mar. 23, 2013>

1. Names and addresses of interested parties and agents (in the case of a corporation, its title and name of its representative and the location of its business office);
2. Denominations of the plant variety at issue;
3. Filing date of the application for plant variety protection and serial number of the application for plant variety protection;
4. Date of decision of refusal, date of decision of plant variety protection or date of decision of revocation by examiner;
5. Intent of the request and reasons therefor.

(2) Even where a request for adjudication submitted under paragraph (1) is corrected, the intent shall not be changed: Provided, That this shall not apply to the reasons for request under paragraph (1) 5.

Article 94 (Adjudicators)

- (1) Upon receipt of a request for adjudication made under Article 93 (1), the chairperson of the Tribunal shall require adjudicators to adjudicate the case.
- (2) Adjudicators shall adjudicate cases independently.
- (3) Qualifications for adjudicators shall be prescribed by Presidential Decree.

Article 95 (Designation, etc. of Adjudicators)

(1) The chairperson of the Tribunal shall designate adjudicators to form a panel under Article 96 for each adjudication case.

(2) The chairperson of the Tribunal shall designate a chief adjudicator from among adjudicators designated under paragraph (1), and the chief adjudicator shall have overall management of the adjudication case.

(3) An adjudicator shall be excluded from deliberation and decisions on an adjudication case in any of the following circumstances:

1. Where the adjudicator or his/her current or former spouse is a party to the adjudication case or is in a relationship of joint holder of a right or liability concerning the adjudication case;
2. Where the adjudicator is a current or former relative of a party to the adjudication case;
3. Where the adjudicator has given testimony, made an appraisal or given legal advice concerning the adjudication case;
4. Where the adjudicator engages in or has engaged in the adjudication case as the agent of a party to the adjudication case;
5. Where the adjudicator engages in or has engaged in an adjudication case as a legal representative of a party to the adjudication case;
6. Where the adjudicator has a direct interest in the adjudication case.

(4) Where circumstances indicate that it would be impracticable to anticipate fairness in deliberation and decision by an adjudicator, a party may file a request for challenge to the adjudicator with the Tribunal; if the Tribunal deems the request for challenge reasonable, it shall decide on challenge.

(5) Where paragraph (3) or (4) applies to an adjudicator, he/she may recuse himself/herself from an adjudication case with the permission of the chairperson of the Tribunal.

Article 96 (Panel of Adjudicators)

(1) Adjudication shall be made by a panel of adjudicators consisting of three adjudicators.

(2) The panel of adjudicators referred to in paragraph (1) shall reach an agreement by a majority vote.

(3) No agreement of adjudicators shall be made public.

Article 97 (Application Mutatis Mutandis of Provisions of Examination to Adjudication on Decision of Refusal)

@Articles 33, 35, 42 (2) and 43 shall apply mutatis mutandis to adjudication on decision of refusal under Article 91.

Article 98 (Application Mutatis Mutandis of the Patent Act)

(1) Articles 139, 141, 142, 147, 149, 151, 152 (2) through (4), 153, 154 (1) and (3) through (7), 155 through 160, 161 (1) and (3), 162 through 166, 171, 172 and 176 of the Patent Act and Articles 143, 259, 299 and 367 of the Civil Procedure Act shall apply mutatis mutandis to adjudication under Articles 91 and 92.

(2) For purposes of paragraph (1), "invalidation trial referred to in Articles 133 (1), 134 (1) and (2) and 137 (1), or trial to confirm the scope of a patent right under Article 135 (1)" in Article 139 (1) of the

Patent Act shall be construed as "adjudication of nullity under Article 92 (1)."

(3) For purposes of paragraph (1), "Article 140 (1), (3) through (5) or 140-2 (1)" in Article 141 (1) 1 of the Patent Act shall be construed as "Article 93 (1)," and "Article 82" in subparagraph 2 (b) of the same paragraph as "Article 125", respectively.

(4) For purposes of paragraph (1), "Articles 133 (1), 134 (1) and (2), 135 and 137 (1)" in Article 165 (1) of the Patent Act shall be construed as "Article 92 (1)," and "Article 132-3, 136 or 138" in paragraph (3) of the same Article as "Article 91" and "patent attorney" in paragraph (7) of the same Article as "person", respectively.

(5) For purposes of paragraph (1), "trial against a decision to reject a patent application or against a decision to reject to register an extension of the term of a patent right" in Article 171 of the Patent Act shall be construed as "adjudication on decision of refusal under Article 91."

(6) For purposes of paragraph (1), "Article 132-3" in Article 176 (1) of the Patent Act shall be construed as "Article 91."

Article 99 (Requests for Re-Adjudication)

(1) Parties may request the re-adjudication of an adjudication case made final.

(2) Articles 451 through 453 of the Civil Procedure Act shall apply mutatis mutandis to requests for re-adjudication under paragraph (1).

Article 100 (Filing Objection to Adjudication on Fraudulent Acts)

(1) Where parties to an adjudication case acted in collusion for the purpose of causing a decision on the adjudication case to be rendered which infringe any right or interest of a third party, the third party may request re-adjudication of the finalized decision on adjudication (hereinafter referred to as "adjudication on fraudulent acts").

(2) In making a request for re-adjudication under paragraph (1), parties to adjudication shall be the joint appellees of re-adjudication.

Article 101 (Restriction on Effects of Plant Variety Right Reinstated by Re-Adjudication)

In any of the following circumstances, a plant variety right shall not be effective to an act performed in good faith before a request for re-adjudication is registered but after the relevant decision on adjudication is finalized:

1. Where the plant variety rights is reinstated by re-adjudication after it has be declared null and void;
2. Where it was decided not accept a request for adjudication on a decision of refusal of an application for plant variety protection, but the establishment of a plant variety right is registered by re-adjudication.

Article 102 (Non-Exclusive Licenses for Prior Users of Plant Variety Rights Reinstated through Re-Adjudication)

Where any subparagraph of Article 101 is applicable, a person who runs or prepares to run a business of exploiting a protected plant variety in the Republic of Korea in good faith after the relevant decision on adjudication is finalized but before a request for re-adjudication is registered shall have a non-exclusive

license within the scope of the purpose of such business.

Article 103 (Lawsuits on Decisions, etc.)

(1) The Patent Court of the Republic of Korea shall have exclusive jurisdiction over lawsuits on decisions on adjudication and lawsuits on decisions to refuse corrections to requests for adjudication or to requests for re-adjudication.

(2) Lawsuits prescribed in paragraph (1) shall be lodged only by a party, intervener or a person who requested for intervention in the relevant adjudication or re-adjudication but has been rejected.

(3) Lawsuits prescribed in paragraph (1) shall be lodged within 30 days from the date of receipt of a certified copy of the adjudication or decision.

(4) The period prescribed in paragraph (3) shall be a peremptory term.

(5) No lawsuit can be lodged unless it is related to matters for which adjudication can be requested.

(6) No lawsuit under paragraph (1) shall be lodged independently on a decision on adjudication or decision of adjudication costs under Article 165 of the Patent Act applied mutatis mutandis pursuant to Article 98.

(7) An appeal against a ruling of the Patent Court may be lodged to the Supreme Court.

Article 104 (Lawsuits of Objections against Price)

(1) A person dissatisfied with a decision on the price made under Article 69 (2) 2 may lodge a lawsuit at the court.

(2) Lawsuits under paragraph (1) shall be lodged within 30 days from the date the relevant person is served a certified copy of arbitration.

(3) In a lawsuit lodged under paragraph (1), the holder of a plant variety right, an exclusive license holder or non-exclusive license holder shall be the defendant.

Article 105 (Application Mutatis Mutandis of the Patent Act, etc.)

(1) Articles 180 and 184 of the Patent Act and Article 459 (1) of the Civil Procedure Act shall apply mutatis mutandis to procedures and requests for re-adjudication concerning the protection of plant varieties.

(2) Articles 187, 188 and 189 of the Patent Act shall apply to mutatis mutandis to lawsuits concerning the protection of plant varieties.

(3) For purposes of paragraph (2), "the Commissioner of the Korea Intellectual Property Office" in the first sentence of Article 187 of the Patent Act shall be construed as "the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries"; "Articles 133 (1), 134 (1) and (2), 135 (1), 137 (1), and 138 (1) and (3)" in the proviso to the same Article as "Article 92 (1)"; and "Article 186 (1)" in Article 189 (1) of the same Act as "Article 103 (1)", respectively. <Amended by Act No. 11701, Mar. 23, 2013>

Article 106 (Denominations of Plant Varieties)

(1) A plant variety for which an application is filed to protect under Article 30 (1) shall have a specifically identifiable denomination.

(2) Where the denomination of a plant variety is registered or an application for registering the denomination of a plant variety is pending in the Republic of Korea or a foreign country, such denomination of the plant variety shall be used.

Article 107 (Requirements for Registration of Denominations of Plant Varieties)

The denomination of a plant variety is ineligible for registration under Article 109 (8), if:

1. It consists of numbers only or includes symbols;
2. It is indicated only with the relevant plant variety or the quality, quantity, time of production, method of production, method of use or time of use of the harvested material from the relevant plant variety;
3. It is liable to mislead or cause confusion as it is the same as or similar to the denomination of another plant variety of the genus or species to which such plant variety belongs;
4. It is liable to mislead or cause confusion as if the relevant plant variety were derived from or related to another plant variety, differently from the fact;
5. It uses the name of a plant, genus or species, or is liable to be misled as, or confused with the name of a plant, genus or species;
6. It falsely indicates a relationship with, or is liable to slander or affront a country, race, ethnic group, gender, persons with disabilities, public organization, religion or deceased person;
7. It includes the name, title or abbreviation of a renowned person: Provided, That this shall not apply where consent is obtained from such person;
8. Its country of origin is liable to mislead or to cause confusion or it includes a geographical indication;
9. It is liable to be misled as, or confused with the same or a similar trademark in the process of registration, or registered under the Trademark Act before the filing date of an application for the denomination of the plant variety;
10. It or its meaning, etc. are liable to damage ordinary moral sense, good custom or public order.

Article 108 (Application for Denominations of Plant Varieties in Advance of other Applications)

(1) Where two or more applications for registering the same denomination of a plant variety are filed on different days, the applicant who first files an application to register the denomination shall be only entitled to register the denomination.

(2) Article 25 (2) and (5) shall apply mutatis mutandis to registration of the denominations of plant varieties under paragraph (1). In such cases, "plant variety" shall be construed as "denomination of a plant variety", and "plant variety protection" as "registration of the denomination of a plant variety", respectively.

Article 109 (Procedures, etc. for Registering Denominations of Plant Varieties)

(1) A person who intends to register the denomination of a plant variety (hereinafter referred to as "applicant to register the denomination of a plant variety") shall file an application to register the denomination of a plant variety with the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries with a completed set of documents, etc. prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

(2) If an application for plant variety protection is filed with the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries in cases falling under Article 106 (1), an application to register the denomination of a plant variety shall be deemed filed. <Amended by Act No. 11701, Mar. 23, 2013>

(3) Examiners shall examine whether the denomination of a plant variety filed under paragraph (1) meets the requirements for registration of the denominations of plant varieties provided for in Article 107.

(4) Where any of the following applies to the denomination of a plant variety filed for registration, an examiner shall decide to refuse the application for registration:

1. Where a decision to refuse the application for plant variety protection is made under Article 42 (1);
2. Where Article 106 is violated;
3. Where any of the subparagraphs of Article 107 is applicable;
4. Where a registration of the denomination is disallowed under Article 108.

(5) Where an examiner intends to refuse an application to register the denomination of a plant variety pursuant to paragraph (4) 2 through 4, he/she shall notify the applicant to register the denomination of the plant variety, of the reasons for refusal, and allow the applicant to submit a new denomination of the plant variety within 30 days from the date of notification.

(6) Where none of the subparagraphs of paragraph (4) applies to an application to register the denomination of a plant variety under paragraph (1), an examiner shall publicly announce the application to register the denomination of a plant variety by notice published in the official report.

(7) Where an application to register the denomination of a plant variety is publicly announced under paragraph (6), anyone may file an objection to registration of the denomination with the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries within 30 days from the date of public announcement. <Amended by Act No. 11701, Mar. 23, 2013>

(8) Where it is found that none of the subparagraphs of paragraph (4) applies to an application to register the denomination of a plant variety after the application to register the denomination of the plant variety is publicly announced or procedures for filing objections to registration of the denomination of the plant variety are finished, the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall, without delay, register the denomination of the plant variety in the register of denominations of plant varieties and notify the applicant to register the denomination of the plant variety of such fact. <Amended by Act No. 11701, Mar. 23, 2013>

Article 110 (Filing Objections to Registration of Denominations of Plant Varieties)

A person who intends to file an objection to registration of the denomination of a plant variety shall file a written objection to registration of the denomination of the plant variety, stating the reasons for objection, accompanied by necessary evidentiary documents, with the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries. <Amended by Act No. 11701, Mar. 23, 2013>

Article 111 (Corrections to Reasons, etc. for Filing Objections to Registration of Denominations of Plant Varieties)

A person who files an objection to registration of the denomination of a plant variety (hereinafter referred to as "raiser of an objection to registration of the denomination of a plant variety") may correct the reasons stated in the written objection against registration of the denomination of a plant variety or evidentiary documents within 30 days after the expiration of the period for filing objections against registration of the denomination of a plant variety.

Article 112 (Decisions on Filed Objections to Registration of Denominations of Plant Varieties)

(1) Upon receipt of an objection to registration of the denomination of a plant variety, an examiner shall serve a copy of the written objection against registration of the denomination of a plant variety on the applicant for registration of the denomination of the plant variety and give him/her an opportunity to submit a written answer within a specified period.

(2) An examiner shall decide on the objection to registration of the denomination of a plant variety after the expiration of the period set under paragraph (1).

(3) Decisions on objections to registration of the denomination of a plant variety shall be made in writing, and reasons therefor shall be stated.

(4) If a decision is made under paragraph (2), the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall serve a certified copy of the decision on the applicant for registration of the denomination of a plant variety and the raiser of an objection to registration of the denomination of a plant variety. *<Amended by Act No. 11701, Mar. 23, 2013>*

(5) No objection shall be re-filed on the same grounds once a decision is made on an objection to registration of the denomination of a plant variety.

Article 113 (Ex Officio Decisions of Refusal after Public Announcement of Applications for Registration of Denominations of Plant Varieties)

(1) Where an examiner finds that any of the subparagraphs of Article 109 (4) applies to an application to register the denomination of a plant variety after the public announcement thereof, he/she may decide to refuse the application ex officio.

(2) Where a decision of refusal is made under paragraph (1), no decision shall be made on an objection to registration of the denomination of a plant variety even if an objection to registration of the denomination of a plant variety is filed.

(3) Where the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries makes a decision of refusal pursuant to paragraph (1) and an objection to registration of the denomination of a plant variety is filed, he/she shall serve a certified copy of the decision of refusal on the raiser of the objection to registration of the denomination of a plant variety. *<Amended by Act No. 11701, Mar. 23, 2013>*

(4) Article 42 (2) through (4) shall apply mutatis mutandis to decisions of refusal made under paragraph (1). In such cases, "plant variety protection" shall be construed as "registration of the denomination of a plant variety."

Article 114 (Multiples Objections to Registration of Denominations of Plant Varieties)

(1) An examiner may merge or divide the examination of, or decision on, two or more objections to registration of the denomination of a plant variety.

(2) Where two or more objections to registration of the denomination of a plant variety are filed, and where an examiner deems that one of the objections to registration of the denomination of a plant variety is reasonable as a result of examination, he/she may choose not to decide on the rest of the objections.

(3) Where a decision of refusal is made as an objection to registration of the denomination of a plant variety is deemed reasonable pursuant to paragraph (2), the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall serve a certified copy of the decision of refusal on the raisers of objections to registration of the denominations of a plant variety on which no decision is made.

<Amended by Act No. 11701, Mar. 23, 2013>

Article 115 (Filing Objections to Decisions to Refuse Registration of Denominations of Plant Varieties)

@Articles 110 through 114 shall apply mutatis mutandis to an objection to a decision to refuse registration of the denomination of a plant variety.

Article 116 (Use, etc. of Denominations of Plant Varieties)

(1) No person shall sell, supply, export or import seeds misappropriating the denomination of a plant variety registered by another person under Article 109 (8) (excluding a protected plant variety, the plant variety right of which is established and registered under Article 54 (2)).

(2) No person shall sell or supply seeds using the denomination of a plant variety unregistered in the register of the denominations of plant varieties under Article 109 (8).

(3) Where an applicant for registration of the denomination of a plant variety or a successor to the plant variety uses the denomination of a plant variety registered under Article 109 (8), he/she may indicate a trademark together with the denomination. In such cases, the denomination of the plant variety shall be indicated in a readily identifiable manner.

Article 117 (Revocation of Denominations of Plant Varieties)

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall revoke the denomination of a plant variety registered under Article 109 (8) in any of the following circumstances: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. Where a reason falling under any of subparagraphs 2 through 4 of Article 109 (4) is found;
2. Where the court makes a ruling prohibiting the use of the denomination of a plant variety;
3. Other cases prescribed by Presidential Decree.

(2) Where the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries intends to revoke the denomination of a plant variety pursuant to paragraph (1), he/she shall notify the applicant for the denomination of the plant variety registered of the reasons for revocation and require him/her to submit a new denomination of the plant variety within 30 days from the date of notification.

<Amended by Act No. 11701, Mar. 23, 2013>

(3) Article 109 (3) through (8) and Articles 110 through 114 shall apply mutatis mutandis to the new denominations of plant varieties submitted under paragraph (2).

Article 118 (Seed Commission)

(1) An Agricultural Seed Commission or a Maritime Seed Commission (hereinafter referred to as the "Seed Commission") shall be established within the Ministry of Agriculture, Food and Rural Affairs or the Ministry of Oceans and Fisheries to: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. Advise the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries on the protection of plant variety rights;
2. Deliberate on arbitration on the establishment of non-exclusive licenses under Article 67;
3. Mediate disputes on the infringements of plant variety rights.

(2) The Seed Commission shall consist of one chairperson and at least 10 up to 15 members (hereinafter referred to as "Seed Commission members"), including one full-time adjudicator of the Tribunal established under Article 90 (2).

(3) The Seed Commission members shall be appointed or entrusted by the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries from among the following persons; and the chairperson shall be appointed or entrusted by the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries from among the Seed Commission members: *<Amended by Act No. 11701, Mar. 23, 2013>*

1. A current or former Grade 3 or higher grade public official (including a public official in the general service of the Senior Civil Service) who has experience in seed-related duties;
2. A current or former associate professor or higher in a university under the Higher Education Act, and who has studied the seed-related field;
3. A licensed attorney or patent attorney;
4. A current or former executive of an organization relating to agriculture, forestry or fishery;
5. A current or former executive of an association relating to the seed industry;
6. Persons recommended by a civic organization (referring to a non-profit, non-governmental organization as defined in Article 2 of the Assistance for Non-Profit, Non-Governmental Organizations Act).

(4) The term of office of the Seed Commission members shall be two years, which may be renewed for two further terms.

(5) The composition and operation of the Seed Commission and other necessary matters shall be prescribed by Presidential Decree.

Article 119 (Mediation of Disputes)

(1) A person who intends to seek mediation of a dispute on the infringement of a plant variety right may file a request for mediation with the Seed Commission.

(2) A person who intends to request mediation under paragraph (1) shall submit a request for mediation prescribed by joint ordinance with the Seed Commission. *<Amended by Act No. 11701, Mar. 23, 2013>*

(3) Upon receipt of a request for mediation filed under paragraph (2), the chairperson of the Seed Commission may refer the case to the mediation panel under paragraph (4), if deemed necessary, and send

a copy of the request for mediation to the other party to the dispute.

(4) Upon receipt of a request for mediation filed under paragraph (1), the Seed Commission may form a mediation panel with three members and mediate the case within one year after receipt of the request for mediation: Provided, That where test cultivation, etc. are necessary, it may extend the period of mediation, as prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

(5) The composition and operation of a mediation panel and other necessary matters shall be prescribed by Presidential Decree.

(6) A mediation panel may have a person who files a request for mediation of a dispute on an infringement of a plant variety right under paragraph (1) to bear expenses incurred in relation to investigations: Provided, That the mediation panel may require parties to the case to equally bear expenses where the case is mediated and unless otherwise expressly stipulated by a special agreement.

(7) The method of calculation and payment of expenses under paragraph (6), period of payment, and other matters shall be prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 120 (Exclusion, etc. of Members)

(1) A Seed Commission member shall be excluded from the relevant mediation in any of the following circumstances:

1. Where either of the following persons becomes a party to the relevant dispute or is in a relationship in which a right or obligation is held jointly with a party to the relevant dispute:

(a) A Seed Commission member;

(b) A current or former spouse of a Seed Commission member;

2. Where a Seed Commission member is a current or former relative of a party to the relevant dispute;

3. Where a Seed Commission member gives testimony or makes an appraisal regarding the relevant dispute;

4. Where a Seed Commission member engages or has engaged in the relevant dispute as the agent of a party to the dispute.

(2) Where circumstances indicate that it would be impracticable to anticipate fairness from a Seed Commission member in the performance of his/her duties, a party may request the Seed Commission to exclude him/her; and the Seed Commission shall decide on exclusion if the request for exclusion is deemed reasonable.

(3) If paragraph (1) or (2) applies to a Seed Commission member, he/she may recuse himself/herself from mediation with the permission of the chairperson of the Seed Commission.

Article 121 (Requests, etc. for Data)

(1) The Seed Commission may request the Minister of Agriculture, Food and Rural Affairs, the Minister of Oceans and Fisheries or the heads of affiliated agencies to provide necessary cooperation, such as the submission of data or opinions, test cultivation and genetic testing, if deemed necessary for mediating disputes. <Amended by Act No. 11701, Mar. 23, 2013>

(2) Upon receipt of a request for cooperation made under paragraph (1), the heads of agencies shall cooperate therein unless any justifiable grounds exist.

Article 122 (Requests for Attendance)

(1) The Seed Commission may request a party, his/her agent or interested parties to attend a meeting or submit relevant documents, if necessary.

(2) Where the Seed Commission requests a party, his/her agent or interested parties to attend a meeting or submit necessary relevant documents under paragraph (1), it shall send a written request by no later than seven days before the scheduled date for the meeting.

(3) The written request under paragraph (2) shall contain an intent that if the receiver shall be deemed to have abandoned an opportunity to state his/her opinions if he/she fails to comply therewith without justifiable grounds.

(4) Where a party fails to comply with a request for attendance or a request for submission of data under paragraph (1) without justifiable grounds, the case shall be deemed not mediated.

Article 123 (Ex Officio Decisions of Mediation)

(1) Where parties fail to reach an agreement or a requester's claim is deemed reasonable, the Seed Commission may make an ex officio decision in lieu of mediation (hereinafter referred to as "ex officio decision of mediation") and insofar as it does not go against the intent of the request, taking into consideration the interests of the parties and all other circumstances.

(2) An ex officio decision of mediation may include:

1. Suspension of infringement;
2. Compensation for damage or other remedy;
3. Measures necessary for preventing recurrence of the same or similar infringements.

(3) The text and reasons therefor shall be stated in an ex officio decision of mediation, and all mediators involved therein shall put signature and seal thereto; and the original copy shall be served on the relevant party without delay.

(4) If a party fails to file an objection within 14 days from the date it is served a decision pursuant to paragraph (3), it shall be deemed to have accepted the ex officio decision of mediation.

(5) If an objection is filed within the period referred to in paragraph (4), the Seed Commission shall, without delay, notify the other party of such fact.

Article 124 (Conclusion, etc. of Mediation)

(1) Mediation shall be concluded by inserting agreements between parties in a mediation report.

(2) Where mediation is concluded under paragraph (1), an agreement shall be deemed reached between parties with the same contents as the mediation report: Provided, That this shall not apply to matters that cannot be managed by parties on their own discretion.

Article 125 (Fees)

(1) The following persons shall pay fees:

1. A person who intends to register the appointment of a manager of plant variety protection under Article 4 (4) or to register a change of such manager;
2. A person who intends to apply for plant variety protection pursuant to Article 30 (1);
3. A person who intends to claim a right of priority pursuant to Article 31 (1);
4. A person who intends to file for registration (excluding registration of establishment of a plant variety right under Article 54) under Article 52;
5. A person who intends to request arbitration concerning the establishment of a non-exclusive license under Article 67 (1);
6. A person who intends to request adjudication under Article 91 or 92;
7. A person who intends to request re-adjudication under Article 99;
8. A person who intends to request a certified copy, abstract copy or copy of various documents or evidence.

(2) Fees referred to in paragraph (1), methods of payment, period of payment, and other matters shall be prescribed by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 126 (Exemption from, and Refund of, Fees)

(1) Notwithstanding Article 125, the State, local governments, beneficiaries provided for in Article 5 of the National Basic Living Security Act and persons determined by joint ordinance shall be exempt from fees. <Amended by Act No. 11701, Mar. 23, 2013>

(2) A person who intends to obtain an exemption from fees under paragraph (1) shall submit documents prescribed by joint ordinance to the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries. <Amended by Act No. 11701, Mar. 23, 2013>

(3) No fees shall be refunded: Provided, That fees paid by mistake shall be refunded at the payer's request.

(4) Where fees are paid by mistake, the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall notify the payer thereof as soon as he/she becomes aware of such fact. <Amended by Act No. 11701, Mar. 23, 2013>

(5) A request for a refund of fees under the proviso to paragraph (3) shall be made within three years from the date the fees are paid.

Article 127 (Language to Use)

All documents required under this Act shall be written in Korean; where Chinese characters or other foreign characters are to be used, such shall be placed in parentheses: Provided, That this shall not apply where prescribed otherwise by joint ordinance. <Amended by Act No. 11701, Mar. 23, 2013>

Article 128 (Keeping, etc. of Documents)

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall keep documents relating to an application for plant variety protection or a plant variety right for five years from the date an application for plant variety protection is abandoned, revoked or withdrawn or a decision to refuse the application is made, or from the date of expiration of the plant variety right. <Amended by Act No. 11701, Mar. 23, 2013>

(2) Persons interested in plant variety protection may request an inspection or reproduction of documents relating applications for plant variety protection, plant variety rights and documents relating to examinations or tests performed under Article 40 or 82 (2) to the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries. <Amended by Act No. 11701, Mar. 23, 2013>

(3) Upon receipt of a request made under paragraph (2), the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall not permit any inspection or reproduction in any of the following circumstances: <Amended by Act No. 11701, Mar. 23, 2013>

1. Where a plant variety falls under Article 56 (3) 2 and the applicant for the relevant plant variety protection requests for non-disclosure;

2. Where the document is related to an application for plant variety protection is not made public.

Article 129 (Delegation and Entrustment of Authority, etc.)

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may partially delegate his/her authority under this Act to the Administrator of the Rural Development Administration, the Minister of the Korea Forest Service or the heads of affiliated agencies, as prescribed by Presidential Decree. <Amended by Act No. 11701, Mar. 23, 2013>

(2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may partially entrust his/her duties under this Act to corporations or organizations relating to agriculture, forestry and fishery determined by joint ordinance, as prescribed by Presidential Decree. <Amended by Act No. 11701, Mar. 23, 2013>

Article 130 (Application Mutatis Mutandis of the Patent Act)

@Articles 217, 218 through 220 and 222 of the Patent Act shall apply mutatis mutandis to the service of documents in procedures for plant variety protection and other matters.

Article 131 (Infringements, etc.)

(1) Any of the following persons shall be punished by imprisonment for not more than seven years or by a fine not exceeding 100 million won:

1. A person who infringes on a plant variety right or exclusive license;

2. A person who infringes on a right provided for in Article 38 (1): Provided, That this shall only apply where the establishment of the relevant plant variety right is registered;

3. A person who obtains a decision of plant variety protection or decision on adjudication by fraudulent or other illegal means.

(2) A prosecution of a crime under paragraph (1) 1 or 2 shall be instituted only if an accusation is filed.

Article 132 (Perjury)

(1) Where a witness, appraiser or interpreter who swears an oath under Article 154 or 157 of the Patent Act applied mutatis mutandis in Article 98 makes a false statement, appraisal or interpretation at the Tribunal, he/she shall be punished by imprisonment for not more than five years or by a fine not exceeding ten million won.

(2) If a person who commits a crime of paragraph (1) surrenders himself/herself before a decision or ruling on the case is made conclusive, his/her sentence may be mitigated or remitted.

Article 133 (Crimes of False Marking)

Any person who violates Article 89 shall be punished by imprisonment for not more than three years or by a fine not exceeding 20 million won.

Article 134 (Crimes, etc. of Divulging Confidential Information)

A current or former public official of the Ministry of Agriculture, Food and Rural Affairs or the Ministry of Oceans and Fisheries (where authority is delegated pursuant to Article 129, including a staff member of the agencies delegated with such authority) or a current or former staff member of the Tribunal who divulges or misappropriates confidential information he/she becomes aware of in the course of performing his/her duties about a plant variety for which an application is pending shall be punished by imprisonment not more than five years or by a fine not exceeding 50 million won. *<Amended by Act No. 11701, Mar. 23, 2013>*

Article 135 (Joint Penal Provisions)

If the representative of a corporation, or an agent, employee or other servant of the corporation or an individual commits a violation under Article 131 (1) or 133 in connection with the duties of the corporation or the individual, not only shall such violator be punished, but also the corporation or individual shall be punished by a fine under the relevant provisions: Provided, That this shall not apply where such corporation or individual has not been negligent in giving due attention and supervision concerning the relevant duties to prevent such violation.

Article 136 (Confiscation, etc.)

(1) The court shall announce a sentence that an article constituting a crime provided for in Article 131 (1) 1 or 2 or an article derived from such crime be confiscated, or the article be delivered to a victim at his/her request.

(2) Where a victim receives an article under paragraph (1), he/she may make a claim for compensation for damage that exceeds the price of the article.

Article 137 (Administrative Fines)

(1) Any of the following persons shall be punished by an administrative fine not exceeding 500,000 won:

1. A person who fails to report on the intent of succession to a plant variety right, exclusive license or pledge right, or the intent of general succession, in violation of Article 62 (2);
2. A person who fails to comply with an order to report on exploitation under Article 81;
3. A person, other than a witness, appraiser or interpreter who swears an oath under Articles 143, 259, 299 and 367 of the Civil Procedure Act applied mutatis mutandis under Article 98, who makes a false statement at the Tribunal;
4. A person who fails to comply with an order to submit or produce documents concerning the examination or preservation of evidence issued by the Tribunal under Article 157 of the Patent Act, applied mutatis mutandis under Article 98, without justifiable grounds;

5. A person summoned by the Tribunal as a witness, appraiser or interpreter under Article 154 or 157 of the Patent Act, applied mutatis mutandis under Article 98, who fails to comply with the summon, or refuses to swear an oath, to give testimony, or to make a statement, appraisal or interpretation without justifiable grounds.

(2) Administrative fines under paragraph (1) shall be imposed and collected by the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries, as prescribed by Presidential Decree. <Amended by Act No. 11701, Mar. 23, 2013>

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force one year after the date of its promulgation.

Article 2 (General Transitional Measures concerning Disposition, etc.)

Disposition issued, procedures taken, or acts done by or against administrative agencies under the former Seed Industry Act before this Act enters into force shall be deemed corresponding disposition, procedures, acts done or against administrative agencies under this Act.

Article 3 (Transitional Measures concerning Registration of Plant Variety Managers, Reporting on Representative of Multiple Parties, etc.)

(1) A person who has registered the appointment and change of a variety protection agent and the grant or revocation of agency authority under Article 3 (3) of the former Seed Industry Act as at the time this Act enters into force shall be deemed to have registered the appointment and change of a manager of plant variety protection and the grant or revocation of agency authority under Article 4 (3).

(2) A representative of multiple parties reported under the proviso to Article 5 (1) of the former Seed Industry Act as at the time this Act enters into force shall be deemed a representative of multiple parties reported under the proviso to Article 7 (1).

(3) A person who has reported succession to a right by which a plant variety is protected under Article 23 of the former Seed Industry Act as at the time this Act enters into force shall be deemed to have reported a right by which a plant variety is protected under Article 27.

Article 3-2 (Transitional Measures concerning of Protection, etc. of Known Plant Varieties)

Where an application for the protection of a plant variety is filed or plant variety protection is granted after an application for the protection of a plant variety was filed pursuant to Article 13-2 of the former Seed Industry Act as at the time this Act enters into force, Article 13-2 of the former Seed Industry Act shall apply to the plant variety right.

Article 4 (Transitional Measures concerning Applications, Requests, etc. for Plant Variety Protection, etc. and Registration thereof)

(1) A person who files an application for plant variety protection under Article 26 of the former Seed Industry Act as at the time this Act enters into force shall be deemed to have filed an application for plant variety protection under Article 30.

(2) The establishment, etc. of a plant variety right, exclusive license or non-exclusive license registered under Article 68 of the former Seed Industry Act as at the time this Act enters into force shall be deemed registered under Article 52.

(3) A person who has filed a request for arbitration on the establishment of a non-exclusive license under Article 68 of the former Seed Industry Act as at the time this Act enters into force shall be deemed to have filed a request for arbitration under Article 67.

Article 5 (Transitional Measures concerning Establishment, etc. of Variety Protection Tribunal)

(1) The Variety Protection Appeals Commission established under Article 91 (1) of the former Seed Industry Act as at the time this Act enters into force shall be deemed the Tribunal established under Article 90 (1).

(2) The judges of Variety Protection Appeals Commission appointed or entrusted under Article 91 (2) of the former Seed Industry Act as at the time this Act enters into force shall be deemed the adjudicators appointed or entrusted under Article 90 (2). In such cases, the term of office of an entrusted adjudicator shall be the remaining term of office of his/her predecessor.

Article 6 (Transitional Measures concerning Requests, etc. for Adjudication)

(1) A person who has filed a request for trial on decision of refusal or decision of revocation or trial for invalidation under Article 93 or 94 of the former Seed Industry Act as at the time this Act enters into force shall be deemed to have filed a request for adjudication on decision of refusal or decision of revocation or adjudication on nullity under Article 91 or 92.

(2) A person who has filed a request for retrial or an objection to adjudication on fraudulent acts under Article 101 or 102 of the former Seed Industry Act as at the time this Act enters into force shall be deemed to have filed a request for re-adjudication or an objection to adjudication on fraudulent acts under Article 99 or 100.

Article 7 (Transitional Measures concerning Applications, etc. for Registration of Denominations of Plant Varieties)

(1) A person who has filed an application to register the denomination of a plant variety under Article 111 (1) of the former Seed Industry Act as at the time this Act enters into force shall be deemed to have filed an application to register the denomination of a plant variety under Article 109 (1).

(2) The denomination of a plant variety registered under Article 111 (8) of the former Seed Industry Act shall be deemed registered under Article 109 (8).

(3) A person who has filed an objection to registration of the denomination of a plant variety under Article 111-2 of the former Seed Industry Act as at the time this Act shall be deemed to have filed an objection to registration of the denomination of a plant variety under Article 110.

Article 8 (Transitional Measures concerning Establishment, etc. of Seed Commission)

(1) The Seed Council established under Article 158 (1) of the former Seed Industry Act as at the time this Act enters into force shall be deemed the Seed Commission established under Article 118 (1).

(2) The Seed Commissioners appointed or entrusted under Article 158 (3) of the former Seed Industry Act as at the time this Act enters into force shall be deemed the Seed Commission members appointed or entrusted under Article 118 (3). In such cases, the term of office of an entrusted commission member shall be the remaining term of office of his/her predecessor.

Article 9 (Transitional Measures concerning Exemption from, or Refund or, Fees)

An application for exemption from fees or a request for refund of fees made under Article 161 or 162 of the former Seed Industry Act as at the time this Act enters into force shall be deemed an application for exemption or request for refund filed under Article 126.

Article 10 (Transitional Measures concerning Penal Provisions and Administrative Fines)

The application of penal provisions and the imposition of administrative fines for violations committed before this Act enters into force shall be governed by the former Seed Industry Act.

Article 11 (Relationship with other Acts and Subordinate Statutes)

A citation of the former Seed Industry Act or the provisions thereof in other Acts and subordinate statutes as at the time this Act enters into force shall be deemed a citation of this Act or to the provision thereof in lieu of the former provisions, if corresponding provisions exist herein.

ADDENDA <Act No. 11701, Mar. 23, 2013>

Article 1 (Enforcement Date)

This Act shall enter into force on June 2, 2013.

Article 2 (Transitional Measures concerning Establishment, etc. of Seed Commission)

The Agricultural Seed Commission and the Maritime Seed Commission established under Article 158 (1) of the former Seed Industry Act as at the time this Act enters into force shall be deemed the Agricultural Seed Commission and the Maritime Seed Commission established under Article 118 (1), respectively.

ADDENDUM <Act No. 12062, Aug. 13, 2013>

This Act shall enter into force on the date of its promulgation.