

Plant breeders' rights

Plant breeders' rights allow you as a plant breeder to protect your cultivation material, such as cuttings, flower bulbs and seeds of certain varieties. That way you can prevent others from reaping the rewards of the efforts you have made to develop a new variety. Plant breeders' rights are exclusive rights and are valid for a maximum period of 25 to 30 years.

Requirements: new, distinctive, homogenous and stable

A plant variety must meet five requirements before plant breeders' rights can be granted. First of all, the variety must be new (it may not have been put to commercial use for more than one year in the country the application is filed and more than four years abroad). Secondly, it must be distinctive, i.e. it must differ from earlier plant varieties. Thirdly, the variety must be homogenous: plants of the variety may not differ too much from other plants of the same variety. Finally, the variety must be stable: its essential characteristics must be maintained after repeated reproduction. Lastly, the name that you as the plant breeder have suggested must be approved by the authority granting the plant breeders' rights.

Application for plant breeders' rights

If you wish to obtain plant breeders' rights for a variety, you must file an application with the authority granting plant breeders' rights. In the Netherlands that is the 'Raad voor plantenrassen' (Dutch Board for Plant Breeders' Rights) in Roelofarendsveen. You must e.g. provide a technical description of the variety and specify its origin and a name. You must also state whether any application procedures are pending in other countries. After you have filed the application, an investigation will be performed in the relevant registers, followed by a trial planting, in which the new variety's distinctiveness, homogeneity and stability will be examined. If your variety meets all the requirements and if its name has been approved, the variety will be recorded in the national varieties register. This application procedure will take about one to six years. You can also have your variety protected throughout Europe. In that case you must file an application for all the 27 EU Member States with the Community Plant Variety Office in France.

Priority right

If you file an application for plant breeders' rights, you will be granted a priority right for one year. This means that if you file an application abroad within that year, the filing date of your Dutch plant breeders' or Community right will apply. In that way you, as a future holder of plant breeder's rights, will be the first to be granted protection of the variety. Once you have been granted plant breeders' rights, you may allow third parties to produce, sell or breed your variety against payment. This can be done by means of a licence.

More information?
Please do not hesitate to contact us.