

DRAFT

Plant Breeders' Rights Rules, 2017

CHAPTER I PRELIMINARY

1. Short title and commencement. –

- (1) These Rules may be called the Plant Breeders' Rights Rules, 2017.
- (2) They shall come into force at once.

2. Definitions. –

In these Rules, unless there is anything repugnant to the subject or context,-

- (a) "Act" means Plant Breeders' Rights Act, 2016 (Act No. L of 2016);
- (b) "act of assignment" means authorization given by the applicant to a person or persons to exercise his rights as indicated in writing;
- (c) "breeder" means a natural or legal person, an institution, a farmer or an organization which has bred, discovered or developed a new plant variety;
- (d) "compulsory licence" means a license granted by the registrar under section 33 of the Act;
- (e) "counter statement" means a reply in the form of a statement supported by reasons, evidence, and or data and record in defence and or in denial of the claim of the opponent;
- (f) "defects" means deficiencies found in the application with regards to the requirements for making application for grant of rights as specified under the Act and the Rules;
- (g) "denomination" means any name given to a plant variety as prescribed under the Rules;
- (h) "essentially derived variety," means a variety derived from a protected variety where the protected variety is not itself an essentially derived variety, while it retains the expression of essential characteristics that result from the genotype or combination of genotypes of the initial variety
and-
 - (i) it is clearly distinguishable from such initial variety,
and

- (ii) it conforms (except for the differences which result from the act of derivation) to such initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of such initial variety;
- (i) “form” means form or forms annexed to these rules;
- (j) “gazette notification” means notification of particulars or parameters of a plant variety in the PBR Journal published by the Plant Breeders’ Rights Registry;
- (k) “holder of rights” means person, institute, and or organization that has been granted plant breeders’ rights as permissible under Section 22 of the Act;
- (l) “incentives” means the benefits in the form of awards, formal appreciation, and or other financial benefits;
- (m) “infringement” as defined in section 38 of the Act will be culpable, provided it is committed knowingly and mala fide;
- (n) “licensee” means holder of license granted under this Act;
- (o) “National Genetic Resource Centre” means the Plant Genetic Resources Institute, at National Agricultural Research Centre, Islamabad;
- (p) “registered agent” means a legal person nominated by the applicant or breeder to represent on his/her behalf in the matters related to the grant of rights under this Act;
- (q) “Rules” means the Plant Breeders’ Rights Rules 2017;
- (r) “Successor” means a legal transferee of the rights nominated by the applicant for the rights in respect of a variety protected under this Act

CHAPTER II

APPLICATION FOR PROTECTION OF PLANT VARIETY

1. **Filing of Application:** - (1) Every application shall be filed in triplicate in the name of Registrar in the office prescribed for the purpose;
- (2) the application must include the valid postal address, landline telephone numbers, cell phone number and e-mail of the applicant or his agent;

- (3) as specified under section 13 of the Act, the application for grant of variety protection must be made on form PB-1 given in Schedule-I on payment of fee as specified in Schedule-II;
- (4) the application shall be signed by the owner or breeder or discoverer of the variety or the successor in title or either of them, as the case may be. The owner may be a natural or legal person, an institution or organization, but in case, the applicant is a natural or legal person, an institute or organization, the applicant shall name the breeder (s);
- (5) in case of “act of assignment” the claim for right to make application shall have to be furnished on Form PB-2 in Schedule-I, along with a valid authorization in the manner as specified on PB-3 of Schedule-I. The applicant shall have to submit a succession certificate in case application is made by virtue of succession;
- (6) in case of the death of any applicant after the date of his application and before protection of the plant variety has been effected, the Registrar may, on being satisfied of the applicant’s death, enter in the register, in place of the name, address, and nationality of the deceased applicant, the name, address, and nationality of the person succeeding the Plant Breeders’ Rights;
- (7) every application for grant of protection of rights must include a suitable denomination of variety, a statement of novelty, distinctiveness, uniformity and stability, essential characters, DNA profile of the variety/parental lines, photographs, drawings, statement of adaptability of variety and or any other documents required to be submitted for grant of protection under this Act.
- (8) Any change in the application shall be allowed on submission of application on form PB-4 as specified in Schedule-I on payment of fee as specified in Schedule-II by the Registrar within one month after filing of the application.

2. Denomination of a variety:- (1) An applicant, on making the application shall propose a suitable denomination for the variety;

- (2) the denomination must enable the new variety to be identified and must be short and simple and may not consist solely of figures and it must be clearly different from all the approved or registered variety names;.
- (3) No plant variety denomination proposed by the applicant shall be accepted if it is;
 - (a) the same as that of any other variety of the crop or group of crops to which the plant in respect of which the application is made belongs to, or so nearly resembles with the name of any such other

variety that it would be likely to deceive or to cause confusion as to the identity of the variety;

- (b) liable to deceive or cause confusion as to the characteristics or value of the variety or as to the identity of the breeder;
 - (c) liable to give offence or is otherwise contrary to law, public order or ethics.
- (4) Where the denomination assigned to the variety does not satisfy the requirements specified under rule 3, the Registrar may require the applicant to propose another denomination on form PB-5 as specified in Schedule-I within thirty days after such notice has been received from the Registrar and;
- (5) The registrar may allow any change in the denomination of the variety before the advertisement of the variety provided the application is made on form PB-5 as specified in Schedule-I after payment of prescribed fee (Schedule-II).

3. Return of application:- When the Registrar finds that an application does not include all the particulars which it must contain under this Act, he shall inform the applicant of the defects in it; if the applicant does not correct the defects indicated by the Registrar within thirty days, the Registrar shall return the application. However, before turning down the application, the Registrar shall give the applicant a chance of personal hearing on receipt of application on Form PB-8 as specified in Schedule-I, if so desired.

4. Advertisement of the Application,- when an application for protection of a variety has been found in order as per rules, the Registrar shall within 15 days, cause such application to be advertised in the PBR Journal as specified in Schedule-I, together with the conditions or limitations. The advertisement may include name, source of variety or parental lines, brief description of the variety bringing out its characteristics, essential/economic characters, agronomic value and commercial attributes, photographs, drawings of plants, plant parts and any other related information or claim of the breeders/applicant. Arrangements shall also be made by the Registry to make PBR Journal available online in addition to publishing its hard copies.

5. Procedure to deal with opposition to the Application,- (1) As permissible under section 19 of the Act, any person may give to the Registrar, a notice of opposition against the grant of rights in respect of a plant variety, on Form PB-6 (Schedule-I) after payment of the fee as prescribed in schedule-II and on any of the grounds as specified under sub section (1) of the Section 19 of the Act within four months after advertisement of the application

(2) The Registrar shall grant permission for any changes in the notice of oppositions or the counter statements in the prescribed manner as and when requested as well as he may consider a request for extension in time for response to both parties when requested as the case may be. Before making a final

decision on such application, personal hearing of the requesting party shall be granted.

(3) Within two months of giving a notice of opposition, the applicant would require to submit a counter statement on form PB-7 (Schedule-I). Failing to submit a counter statement, the Registrar shall call the applicant for a personal hearing within a month which shall be considered his final opportunity to defend his application; otherwise a final decision would be made by the registrar on the basis of submitted evidence.

6. Protection of essentially derived variety.- (1) An application on form PB-1 (Schedule-I) after payment of prescribed fee (Schedule-II) in the manner prescribed under rule 1 replacing the word “variety” with “essentially derived variety” shall be required to be submitted to the registrar;

(2) After initial examination of the contents of application, the registrar shall, when satisfied, advertise the acceptance of application as prescribed under rule 4 and invite claims of oppositions and follow the procedure for grant of protection rights;

(3) Decision to grant protection rights to an essentially derived variety would be made on case to case basis;

(4) Where an essentially derived variety has been derived from an initial variety already protected under this Act and for which DUS test report has already been generated. Specific trials and other tests to verify the distinctive characters claimed by the breeder to facilitate the identification of the variety shall be conducted. In this case, specific tests and trials shall be performed to determine the essential derivation of inheritable characteristics and genetic conformity between the essentially derived and the initial variety. However, in case the essentially derived variety is derived from a variety not protected under the Act, it shall be assessed substantially i.e. for DUS, novelty assessment and other related parameters;

(5) Where the Registrar is not satisfied on the report of the test referred in sub-rule (4) that the essentially derived variety has not been derived from the initial variety, shall reject the application;

(6) The rights of the breeder of a new plant variety contained in this Act shall also apply to the breeder of an essentially derived variety provided that the authorization by the breeder of the initial variety to the breeder of essentially derived variety may be subject to such terms and conditions as both the parties may mutually agree upon.

(7) An essentially derived variety shall not be protected under this section unless it satisfies the requirements of section 18 as if for the word "variety", the words "essentially derived variety" have been substituted therein.

7. Register of the Protected Plant Varieties. - Register of Protected plant varieties shall be kept and maintained by the Plant Breeders' Rights Registry for registration of all the protected plant varieties in Pakistan.

(1) Details and information pertaining to protected varieties shall be recorded in the Register of Protected Varieties including but not limited to;

- i) Provisional number given to the application;
- ii) Allotted registration Number;
- iii) Brief taxonomical information of the Crop in Botanical names;
- iv) Name (s) and complete address of the applicant;
- v) Address for correspondence or service delivery of the applicant;
- vi) Name of the Developing Institute/organization;
- vii) Breeder(s) Name;
- viii) Date on which application was received
- ix) Date of Grant of Registration;
- x) Date of Gazette notification (PBR Journal);
- xi) Denomination (as granted) of the Variety;
- xii) Name of Crop;
- xiii) Type (classification) of Variety (typical variety, hybrid variety or essentially derived variety);
- xiv) Grouping of the plant variety (new, already registered;
- xv) Passport data (information) of the variety;
- xvi) Distinctive characters of the variety;
- xvii) Initial date of protection;
- xviii) Expiry date of protection;
- xix) Date of revocation, if effected,
- xx) Details related to the grounds of revocation;
- xxi) legal representative or assignee (where applicable);
- xxii) Information regarding licensee (name and address)
- xxiii) Terms and conditions of license (if applicable);
- xxiv) Details pertaining to jurisdictional rights (if specified),
- xxv) Information of first breeder (name and address) of initial variety (in case of essentially derived variety);
- xxvi) Details pertaining to mode of acquisition of propagating material, seeds (where required);
- xxvii) Details of contributor(s) of generic material (where required);
- xxviii) Details of parental material used in the development (denomination and major traits);
- xxix) Information on origin of the plant variety (place, country, state);
- xxx) Brief description of the morphological characters of the variety along with illustrations, drawings and photographs;
- xxxi) characteristic details of the variety compared;
- xxxii) DUS character profile;
- xxxiii) Name and address of licensee (in the event of compulsory license), along with terms and conditions, details of revocation, etc.),
- xxxiv) Details of benefit sharing;
- xxxv) Details of opposition, if made, outcome thereof;

- (2) In case variety was protected in a country outside Pakistan, following information shall be included in the Register of Protected namely:-

- xxxvi) Name of the country(ies) of protection;
- xxxvii) Denomination approved in respect of protected variety where already protected (each country, place, state);
- xxxviii) Date of first protection or any subsequent protection along with names of country;
- xxxix) Any modification made to essential varietal traits after first filing/protection;
- xl) Any other feature specified by the Registrar or PVPAC.

CHAPTER III

EXAMINATION OF A PLANT VARIETY FOR GRANT OF RIGHTS

- 8. Examination of a Plant variety;-** (1) Examination of a plant variety for grant of Plant Breeders' Rights shall be made as follows;

- i) Preliminary examination
- ii) Substantive examination

(2) **Preliminary Examination;-** (a) When the application is received to the registrar along with seed sample of the variety or hybrid including its parent material as required to conduct tests and trials, a provisional number shall be allotted to the application and the same shall be referred for the preliminary examination;

(b) During the preliminary examination, the eligibility of the applicant, and the contents of the application required under the rules shall be examined within one month. During this period, any change in the application requested by the applicant shall be allowed by the Registrar in a prescribed manner. In case any deficiencies or improvements are suggested, the Registrar shall ask for the same to be supplied within one month, failing which it would be considered that the applicant has abandoned the application;

(c) The claim of the applicant shall be assessed with respect to novelty and requirements of the denomination. In case, the Registrar is not satisfied with the denomination, the same shall be communicated to the applicant with the direction to change the denomination as prescribed within a stipulated time period. When the application fulfils the criterion of novelty and suitable denomination as required under the Act and the Rules, the Registrar shall accept the application and advertise the same in the PBR Journal in the manner as prescribed in Form-1 (Schedule-I) and would invite claims for opposition;

(d) In case of opposition, the prescribed procedure as given in chapter II, section 5 of the rules shall be followed to deal such cases;

(3) **Substantive Examination:-** (a) Where no opposition was received within four months of the advertisement of the application or decision of opposition was finalized and communicated in favour of the applicant, the Registrar shall recommend the variety for technical examination and ask the applicant to pay fee as prescribed in Schedule-II for carrying out DUS trials and other tests to validate his claim;

(b) The Registrar shall make available the submitted seed sample of the variety, hybrid and its parent material to the Federal Seed Certification and Registration Department for carrying out DUS test or any other specific test as desired;

(c) The DUS test shall be conducted by FSC&RD for a period of two crop seasons in replicated trials according to the guidelines for a specific crop or crop group developed by the department from time to time and published by the Registrar in PBR Journal;

(d) FSC&RD shall furnish to the Registrar, the DUS profile and the reports of the tests of the variety after carrying out DUS test as the case may be;

(e) After completion of the substantive examination and fulfilment of the criteria for grant of plant breeders' rights, the Registrar shall issue the Certificate for grant of Plant Breeders' Rights to the applicant, designating the same as the holder of the rights. The certificate shall be published in PBR Journal, along with specific information of the plant variety for which the rights have been granted. The Registrar would also make arrangements for entry of the related information of grant of rights of every variety or hybrid in the Plant Variety Register in the manner as specified under rule 7.

f) Any change or correction in the plant variety register shall be made upon submission of application by the holder of rights in the manner as prescribed in Form PB-9 in Schedule-I after payment of prescribed fee (Schedule-II).

CHAPTER IV ISSUANCE AND SURRENDER OF CERTIFICATE

9. Issuance of Certificate for grant of Plant Breeders' Rights;- (1) After completion of the formalities for grant of rights as specified under rules, the Registrar shall issue Plant Variety Protection Certificate to the holder of the rights under section 21 of the Act within three years from the initial date of filing of the application. The Certificate shall be issued on form PB-10 (Schedule-I) after payment of prescribed fee (Schedule-II);

(2) The Registrar shall soon after issuance of the Certificate, send its copies to the owner of the variety and other concerned offices as required;

(3) The Registrar shall publish a list of all protected plant varieties mentioning particulars of registration period, and name and address of the holder of rights in the PBR Journal;

(4) The holder of the Certificate shall be required to pay annual fee for continuation of his rights of protection as prescribed in Schedule-II. In case, the holder of certificate fails to pay the annual fee within three months of its being payable, the Registrar shall issue a notice for payment of such fee along with 10 percent late charges within 30 days. In case of non-payment of fee during the extended period, the Registrar shall issue a show cause notice directing him to pay the fee along with 30 percent late charges within 30 days. In case of no response from the holder of Certificate, the Registrar shall publish a final show cause notice in the PBR Journal and one English and one Urdu daily **newspaper** to pay double fee along with cost of publication within 15 days. If the fee along with late charges is not paid within the above mentioned period, the Registrar shall summon the holder of Certificate for personal hearing. In the event of non attendance of hearing or unsatisfactory response, the Registrar shall eventually, forfeit the Certificate and publish such forfeiture in the PBR Journal.

10. Surrender of certificate;- (1) Owner of the Certificate intending to surrender it shall require to send a notice on form PB-11 (Schedule-I) to the Registrar of his surrender;

(2) The Registrar shall intimate of the notice to the registered agents or to licensee pertaining to the Certificate and invite opposition in writing providing grounds for opposition within three months.

(3) If any party opposes the surrender of Certificate, it shall submit notice of opposition on Form PB-12 as prescribed in Schedule-I after payment of fee as prescribed in Schedule-II with a copy to the owner of certificate. In case the owner contests the opposition, a written statement along with reasons would be required to be submitted to the Registrar sending a copy of the same to the party opposing the surrender of Certificate within three months of the receipt of notice of opposition.

(4) The Registrar shall hear the parties before deciding acceptance or refusal of the application for surrender. The Registrar may impose conditions or limitations on such surrender. In case of accepting the application for surrender, the registrar shall ask the applicant to return the certificate and completing other formalities shall notify the effect of his decision in the PBR Journal accordingly.

CHAPTER V THE PLANT VARIETY PROTECTION ADVISORY COMMITTEE

11. Establishment of Plant Variety Protection Advisory Committee (PVPAC).- (1)

As required under Section 10 of the Act, composition of the PVPAC established under the Ministry of National Food Security and Research shall be as follows;

i Secretary, Ministry of National Food Security and Convener

	Research	
ii	Registrar, Plant Breeders' Rights Registry, Islamabad	Member
iii	Chairman Pakistan Agricultural Research Council, Islamabad	Member
iv-vii	Representatives from the Provincial Governments	Members
viii	Director General, Federal Seed Certification and Registration Department, Islamabad	Member
ix	Director General, Intellectual Property Organization (IPO), Islamabad	Member
x	Director General, Pakistan Environmental Protection Agency	Member
xi	Cotton Commissioner, Ministry of Textile Industry	Member
Xii	Chairman, Seed Association of Pakistan, Lahore	Member
xiii	Multinational Seed Companies' Association	Member
xiv	Director (Registry), Plant Breeders' Rights Registry, Islamabad	Member Secretary

(2) The committee may co-opt any other member who is an expert in a specific field of technology when a question related to that field of technology is under consideration.

(3) The PVPAC shall:

- a) propose policy guidelines for the effective implementation of the provisions of the Plant Breeders' Rights Act, 2016;
- (c) advise the Registrar and the Ministry on matters pertaining to compulsory licensing of protected plant varieties;
- (d) formulate recommendations on determination of royalty share and mode of collecting royalties in respect of protected plant varieties;
- (e) review technical guidelines for assessment and evaluation of the DUS and other tests for examination of plant varieties for the grant of protection rights; and
- (f) guide the Ministry and the Registrar on matters pertaining to infringement of plant breeders' Rights, suggest compensation to the farmers for their proven losses due to protected varieties, and any matter referred by the Ministry or the Registrar for guidance and technical input.

(4) The PVPAC shall meet at least twice a year; however, the convener may call special meetings whenever necessary. A general meeting of PVPAC would be called at 15 days' prior notice while a special meeting would be convened on 3 days' notice.

- (5) The PVPAC may, with the prior approval of the Ministry, make rules for regulating its business.

CHAPTER-VI BENEFIT SHARING

12. Benefit sharing.- (1) A person or group of persons or local communities or firm or a non-governmental organization, upon publication of the particulars of a Certificate under section 21, may submit to the Registrar, claim for benefit sharing on Form PB-13 of Schedule-I along with supporting documents, after payment of prescribed fee. The applicant shall provide following information namely:-

- (a) the nature and extent of title;
- (b) the reasons for justifying such claim including contribution made by the claimant to the genetic development of the plant variety; and
- (c) in case of "essentially derived varieties", the terms and conditions in which authorization has been given.

13. Procedure to deal with opposition to a claim for benefit sharing.-(1) on receipt of the claim for benefit sharing, the Registrar shall send a notice along with a copy of the claim to the owner of the variety with the direction to respond within one month after receipt of the summon. In case of no response to the notice, the Registrar shall summon him for hearing in person;

- (2) In case, the owner of the variety does not respond to the notice within the prescribed time period and fails to appear in person as prescribed above, it shall be presumed that he has no opposition to such claim and the claim shall be decided ex parte on merit of the case;
- (3) In case, the owner admits the claim or both the claimant and the owner mutually agree to the nature and extent of the claim, the Registrar shall decide the matter accordingly;
- (4) If, within a period of three months of receipt of notice of claim, the breeder of the plant variety files his opposition in the manner prescribed in Form PB-14 in Schedule-I after payment of prescribed fee (Schedule-II) along with supporting documents in opposition to the claim;
- (5) The Registrar, upon receiving the reply from the owner or breeder, shall furnish a copy of such reply to the claimant and summon both the parties for personal hearing;
- (6) The Registrar shall grant or refuse the right of the applicant to the claim of benefit sharing on the basis of available evidence and documentary proof.

CHAPTER VII
COMPULSORY LICENSING AND ITS REVOCATION

14. Compulsory licensing for exploitation of Certificate in public interest;- (1)

Any interested person, after expiry of three years from the date of issuance of a Certificate of protection of a variety, may make an application for grant of compulsory licence to the Registrar in the manner prescribed in Form PB-15 of the Schedule-I after payment of fee specified in the Schedule-II. The applicant shall;

- (a) Provide particulars of the owner of the Certificate;
- (b) Specify particulars of variety denomination, generic and specific name of the variety or varieties concerned;
- (c) The grounds for issue of compulsory license with supporting documents in respect of;
 - (i) Qualification, technical and financial capabilities of the person making such request with evidence;
 - (ii) Written evidence that the person, making such request is legitimate interested person and has exhausted all measures for voluntary license.

(2) On receipt of an application for grant of compulsory license under sub rule (1), the Registrar shall, within fifteen days, serve notice upon the owner of Certificate or his assignee or registered agent inviting opposition within one month from the receipt of such notice;

(3) On receiving a notice, the owner of the Certificate or his assignee or registered agent will be required to provide statement of opposition on PB-16 to the Registrar supported by documentary proof to substantiate the grounds of opposition;

(4) After giving an opportunity to both the parties of being heard, the Registrar may also refer the application for a compulsory license, to the Plant Variety Protection Advisory Committee to seek technical guidance before concluding an application for the award of compulsory license;

(5) On the basis of above evidence, if the Registrar concludes that;

- a). the holder of a breeder's right did not utilize the protected variety;
- b) utilized it under circumstances and conditions not in the public interest;
- c) set conditions for the utilization of a variety that are not in the public interest;
- d) prevented the holder of an essentially derived variety from utilizing the derived variety;

The Registrar may order the breeder or his assignee or registered agent to license the variety on such terms of royalties and other remuneration as prescribed

(7) The Registrar shall make available to the licensee of such compulsory license, the reproductive material of the licensed variety from the National Genetic Resource Centre designated for the purpose including the initial breeder of such variety for further exploitation of the plant variety;

(8) **Revocation of Compulsory License;-** (1) Upon receipt of an application on Form PB-17 of the Schedule-I supported by evidence or grounds for revocation of a compulsory license as specified under sub-section (1) of section (33) of the Act; or

(2) on his own motion on receipt of evidence of violation of terms of compulsory license, the Registrar may give notice to the holder of compulsory license specifying the grounds to revocation;

(8) The licensee may file an opposition specifying the reasons of opposition to revoke the compulsory license;

(9) The Registrar after considering the grounds of opposition and after giving an opportunity to the licensee of being heard may pass an order of revocation or refuse to grant such order as the case may be, with or without order to cost;

(10) The Registrar shall communicate the outcome of the opposition and publish it in PBR Journal.

CHAPTER-VIII PENALTIES

15. Penalties;- (1) The owner of Certificate of rights under this act, may file suit before the court of District Judge under Civil Procedure Code for trial of any person who commits an infringement of the right of owner of protected plant variety and claims appropriate relief permissible under the law;

2) In case of proved violation of rights, the court may order compensation to the owner of rights, fine not exceeding the quantum of loss caused or benefit derived from such violation or imprisonment not exceeding one year or all above three penalties together as the case may be;

(3) The Registrar or an interested person may file a suit against a person who violates the provisions of the Act in the manner herein after provided, shall be punishable with fine not exceeding Rs. Five lakh or imprisonment for a term which shall not be more than three months;

(a) applying any false denomination to a variety;

(b) indicating the false name of a country or place or false name and address of the breeder of a variety protected under this Act in the

course of trading such variety, shall, unless he proves that he acted, without intent to defraud; and

- (c) Whoever makes any representation with respect to the denomination of a variety or its propagating material not being variety or its propagating material registered under this Act, to the effect that it is a variety or its propagating material registered under this Act or otherwise represents any variety, or its propagating material not registered under this Act to the effect that it is protected under this Act.

CHAPTER-IX MISCELLANEOUS

16. Confidentiality of the Knowledge and Plant Genetic material of the Applicant;-

(1) The Registrar shall ensure the confidentiality of the knowledge and the plant genetic material shared by the applicant during the course of processing his case for protection of the plant variety. It shall be the responsibility of the Registrar to make arrangements for protection of the knowledge and plant genetic material during each and every step the material is under scrutiny within the Plant Breeders' Rights Registry or any other institute where the material is in storage or is being tested in field or laboratory;

(2) The Registrar shall sign comprehensive Memorandum of Understanding (MoUs) with the institutes where the plant material is to be stored or it is tested with terms and conditions indicating a fool proof system of stewardship; and

(3) In case of leakage of the knowledge or the plant genetic material of the applicant submitted to the Registrar, a complete procedure shall be followed by the Registrar under law to deal with such breach of confidentiality.

17. National Genetic Resource Centre; - (1) For the purpose of storing the plant genetic material submitted by the breeders for processing the case of protection of a plant variety, the live samples of the seed and propagating material shall be deposited with the Plant Genetic Resources Institute (PGRI) of the National Agricultural Research Centre, Islamabad as and when directed by the Registrar;

(2) The Registrar shall sign an agreement with the PGRI with the terms and conditions set for the storage of plant genetic material on matters pertaining to conditions of storage, charges for storage, protection of the material against leakage, movement of the genetic material and other related matters; and

(3) The PGRI shall coordinate its activities with Federal Seed Certification and Registration Department for supply of plant genetic material of the protected plant varieties to be used for comparison while studying them for DUS assessment. However, an agreement shall be signed between the PGRI and FSC&RD for movement of plant genetic material ensuring its protected flow and maintaining its confidentiality.

18. Coordination between PBR Registry and FSC&RD;- As required under section 5, 6 and 49 of the Act, and to remove difficulties pertaining to

administrative, technical and financial matters between the two organizations, following measures shall be taken;

- i) The registrar, shall, with the approval of the Ministry, take necessary measures and propose schemes to strengthen and support FSC&RD for carrying out DUS assessment activities both in the Field and at laboratory level;
- ii) FSC&RD shall be responsible to carry out DUS testing and other tests as referred by the Registrar within a stipulated time period;
- iii) FSC&RD shall not charge separate fees for carrying out DUS assessment and related tests from the applicant in case it is already paid to the Registrar; and
- iv) The registrar shall recommend incentives for staff of FSC&RD posted in PBR Registry to carry out PBR related work;

Schedule-I**List of Applications, Forms and Notices**

Form number	Reference of PBR, Rules, 2017	Title of the Document
PB-1	rule 1 (2)	Application for grant of plant variety Protection
PB-2	rule 1 (3)	Proof of Right to make Application
PB-3	rule1 (5)	Authorization form to assign right to be assignee or agent
PB-4	rule 1(8)	Request to amend the application
PB-5	rule 2 (5)	Application for change in Denomination of a variety
PB-6	rule 5 (1)	Notice of Opposition
PB-7	rule 5 (3)	Counter Statement
PB-8	rule 3	Application for hearing
PB-9	rule 8 (3)(f)	Application for making change in Plant Variety Register Protection
PB-10	rule 9 (1)	Certificate for Plant Variety
PB-11	rule 10 (1)	Application for surrender of Certificate
PB-12	rule 10 (3)	Notice of opposition to surrender of Certificate
PB-13	rule 12(1)	Application for making claim of Benefit Sharing
PB-14	rule 13 (3)	Notice of opposition to claim of Benefit sharing
PB-15	rule 14 (1)	Application for grant of Compulsory License
PB-16	rule 14 (1)	Opposition to grant of Compulsory license
PB-17	rule 14 (7)	Application for Revocation of Compulsory License
		Advertisement of application

Plant Breeders' Right Registry
Ministry of National Food Security and Research

APPLICATION FOR PLANT VARIETY PROTECTION

To,

The Registrar,
Plant Breeders' Rights Registry
Islamabad

1. Applicant Name _____
2. Address: _____
3. Names and Addresses of breeder(s) (if different from applicant) :
 - i). _____
 - ii). _____
 - iii). _____
4. Name and Address of Successor (s) (if applicable) :

- 5.(a) Institute/Seed Company/Individual where the variety has be developed: _____
- (b) Sector: _____ (Public/Private)
6. Crop: _____
7. Species _____
8. Method of variety development (1) Introduction (2) Selection from local or exotic Material (3) Hybridization (4) Other (Please specify) _____
9. Proposed denomination of the variety _____
10. Whether GMO or Non-GMO (Please specify) _____
11. Percentage/Pedigree: _____
12. Type of variety: (1) OPV (2) Hybrid (3) other (specify):
13. Please state whether the following has been provided with the application (plea also see the attached instruction):
 - (a) Adaptability studies of the _____ (Yes/No)
variety: _____

- (b) Morphological description of the variety/Parental lines: _____ (Yes/No)
- (c) Geographical location where from the genetic material of the variety/parent material is taken _____ (Yes/No)
- (d) Evidence that variety has or has not been bred from use of breeding material from the public sector _____ (Yes/No)
- (e) Statement/Proof of Novelty of variety along with distinctive characters _____ (Yes/No)
- (f) Consent of Authority (pub/pvt.) or local community where variety is developed from traditional source/variety _____ (Yes/No)
- (g) Proof of right to make application in case of act of succession or assignment of right _____ (Yes/No)
- (h) Documents in support of this application: _____ (Yes/No)
- (i) Plant variety maintenance and seed renewal system: _____ (Yes/No)
- (j) Method to reconstitute the variety if a particular cycle of reproduction or multiplication is specified: _____ (Yes/No)
14. In case of genetically modified plant varieties, please submit the following:
- (a) Undertaking by the breeder/institute/organization for not using a gene or gene sequence involving terminator technology.
- (b) Clearance certificate from National Bio-safety Committee to the effect that the traits of genetically modified variety/hybrid shall have no adverse effect on the environment, human, animal or plant life and health.
- (c) Field data of two crop seasons trials in respect of bio-safety and performance from the concerned organization.
15. Sample of seed (Qty.): _____ (Yes/No)
16. Specimen or plant material/photographs _____ (Yes/No)

etc.

17. Has the variety been included in an official list outside Pakistan? If yes, then provide information in respect of;

Name of country: _____

Year of inclusion: _____

Title of inclusion: _____

18. I/We declare that to the best of my/our knowledge and belief:-

- (a) the variety is distinct, uniform and stable as required by the Seed (Registration) Rule, 1987, Schedule-2,
- (b) the variety is novel and not already protected under any Intellectual Property Rights. The statements made in this application are correct.

Fee amounting: _____ paid vide Challan/Bank draft No: _____ dated: _____ _____ through _____ in the name of Registrar, PBR Registry, Ministry of National Food Security and Research, Islamabad

Signature of Applicant(s):

Seal

Dated: _____

<u>For Registry Use only:</u>
Application No: _____
Date received: _____
Name: _____
Signatures: _____
Seal: _____

Government of Pakistan
Plant Breeders' Rights Registry

PROOF OF RIGHT TO MAKE APPLICATION

I /We: -----as
referred to in the application, being the breeder or holders of the protection rights of the
variety ----- hereby declare that the applicant-----being
signatory of the application is my/our assignee(s) or successor(s).

Furthermore, I/We attach the following documents;

1:

2:

3:

It is declared that the information provided is true and correct to the best of my/our
knowledge and belief.

Signature

Dated -----

Witness 1. Name: -----

CNIC: -----

Full Address: -----

Witness 2. Name: -----

CNIC: -----

Full Address: -----

To The Registrar,
Plant Breeders' Rights Registry
Islamabad

Government of Pakistan
Plant Breeders' Rights Registry

AUTHORIZATION FORM

I/We

1. Name:
Designation:
Institute/organization.....
CNIC:
Address:

2. Name:
Designation:
Institute/organization:
CNIC:
Address:

Hereby authorize the person/person with names and address given below to act in my/our behalf for filing application for protection of plant variety..... and request that the in future all notices and formalities for processing the case for protection of variety may be sent to them unless requested otherwise by me/us.

1. Name:
S/o/D/o:
CNIC:
Address:

2. Name:
S/o/D/o:
CNIC:
Address:

I/We further declare that all previous authorizations are hereby revoked which were made in this connection.

Dated:

Signatures of Authorizing Person:

Name:

Designation:

Institute/Organization:

To,
The Registrar
The Plant Breeders' Rights Registry
Islamabad

Government of Pakistan
Plant Breeders' Rights Registry

REQUEST TO AMEND THE APPLICATION

I/We (Name and Full Address)..... hereby request to
add/delete/ alter my/our application.

My/our particulars are as follows;

Name: -----

Address: -----

Rights in respect of variety Applicant/Breeder/Holder of
rights/assignee/successor

Particulars in respect of Variety are;

Denomination of variety: -----

Crop: -----

Application No: -----

Filing date: -----

The change should reflect in the following manner;

- i) -----
- ii) -----
- iii) -----
- iv) -----

Following documents are submitted to effect the above changes;

- (1)
- (2)
- (3)

Signature.....

Dated: -----

To The Registrar
The Plant Breeders' Rights Registry
Islamabad

Government of Pakistan
Plant Breeders' Rights Registry

APPLICATION FOR CHANGE IN DENOMINATION OF PLANT VARIETY

I/We..... hereby request to add/delete/ alter the denomination of a registered variety.

My/our particulars are as follows;

Name: -----

Address: -----

Rights in respect of variety Applicant/Breeder/Holder of
rights/assignee/successor

Particulars in respect of Variety are;

Name of variety: -----

Crop: -----

Registration No allotted: -----

Publishing date: -----

The change should reflect in the following manner;

- i) The already designated denomination of the variety is:
- ii) The changed denomination will appear as:
- iii) Following address should be used for future correspondence -----

Signature.....

Dated: -----

To The Registrar
The Plant Breeders' Rights Registry
Islamabad

Government of Pakistan
Plant Breeders' Rights Registry

NOTICE OF OPPOSITION TO APPLICATION FOR PROTECTION

I/We -----, hereby give notice of
opposition to the application for protection of plant variety published on
dated:

Grounds for opposing the application are as follows;

1:

2:

3:

Following certified copies of documents in support of my/our claim are accompanying
the application;

1.....

2.....

3.....

My/our valid postal address for future correspondence is as follows;

.....

Signature: -----

Name:

Designation:

Organization:

Dated: -----

To,

The Registrar
The Plant Breeders' Rights Registry
Islamabad

Government of Pakistan
Plant Breeders' Rights Registry

COUNTER-STATEMENT TO DEFEND APPLICATION FOR PROTECTION

In the matter of opposition to the application No for the
registration of a plant variety having registration No: published on
dated:

I/We the applicant(s) for registration of the above plant
variety hereby give notice that the following are the grounds on which I/we rely for
my/our counter statement;

- 1:
- 2:
- 3:

I/We agree/disagree with the following claims/allegations/contentions in the notice of
opposition;

All communications in relation to these proceedings may be sent to the following
address;

.....

.....

Dated.....

Signatures:
Name:
Designation:
Institute/Organization:

To,

The Registrar
The Plant Breeders' Rights Registry
Islamabad

**Government of Pakistan
Plant Breeders' Rights Registry**

ADVERTISEMENT OF ACCEPTED APPLICATION FOR PROTECTION

(See rule 4)

Application No:

Name of the Applicant or Nominee on behalf of applicant.....

Application for (new plant variety/essentially derived variety/-----)

Denomination of Variety: -----

Crop,

Various Specification of the variety including its drawing and or photograph(s) or illustrations of which are given below has been accepted

Assigned registration number.....

Date of Acceptance of Application and Allotment of Registration No:

Convention applications

Application No:

Filed on: -----

Crop: -----

Variety: -----

Name and address of the applicant: -----

Country of residence of the applicant: -----

Name and address of the breeder: -----

Country of Residence: -----

Name of the convention country:

Date of Advertisement

Signature of the Registrar

Government of Pakistan
Plant Breeders' Rights Registry

APPLICATION FOR AN OPPORTUNITY OF BEING HEARD
IN NOTICE OF OPPOSITION

I/We: In the reference of the application submitted on dated..... in connection with the matter of hereby submit request to the Registrar to provide an opportunity of being heard in reference to the above matter.

It is requested that the time and place of the hearing be kindly intimated to me/us at the following address:-

.....
.....

Dated:

Signatures:

Name:

Designation:

Institute/Organization:

To,

The Registrar
The Plant Breeders' Rights Registry
Islamabad

Government of Pakistan
Plant Breeders' Rights Registry

APPLICATION FOR MAKING CHANGES/CORRECTIONS
IN THE PLANT VARIETY REGISTER

I/We:
Being the owner/breeder/authorized agent, Licensee/successor of the Plant variety,
hereby make an application to incorporate changes in the Plant Variety Register in
respect of plant variety with following details;

Variety denomination:
Crop Name:
Registration No:
Registered date:

Corrections/Changes to the extent of following may be made in the plant variety register
in respect of plant variety with above information;

1. Corrections pertaining to title or character profile of the variety;
2. Corrections pertaining to particulars of breeders, applicant, authorized agents etc;
and
3. Corrections to the certificate of protection giving effect to the above corrections
or changes and re-issue the same.

Reasons for the above corrections, modifications are attached in following documents
submitted along with this application;

- i). _____
- ii). _____

My/our address for future communications is as follows;

.....
.....
.....

Dated:

Signatures:
Name:
Designation:
Institute/Organization:

To,
The Registrar
The Plant Breeders' Rights Registry
Islamabad

**GOVERNMENT OF PAKISTAN,
PLANT BREEDERS' RIGHTS REGISTRY**

CERTIFICATE OF PLANT VARIETY PROTECTION

Registration No:	Dated:
Title of Certificate:	

As declared

- That..... has developed new plant variety/essentially derived plant variety and also that he is the true breeder or the legal representative or assignee of the breeder.
- By virtue of an application that has been made to grant plant variety protection rights and that plant variety has particularly been described with respect to its distinctive features and a suitable denomination,
- There is no objection to grant plant variety protection rights of the said variety under the Plant Breeders' Rights Act, 2016 in favour of:

.....

By virtue of this certificate, the above mentioned owner of the rights have under the Plant Breeders' Rights Act, 2016, the exclusive right to produce, sell, market, distribute, import or export the variety (seed) or propagating material for a term of years starting from the.....day of.....20.....and expiring on the day of 20.....

Seal

Signature of the Registrar,

Date of Grant:

Government of Pakistan
Plant Breeders' Rights Registry

APPLICATION TO SURRENDER THE CERTIFICATE OF PROTECTION

I/We:

being the owner/breeder/successor of the Plant variety with registered
denomination..... of crop registered
on----- with Registration No. and
certificate of protection issued on dated.hereby
surrender the certificate of registration w.e.f. -----The reasons
and grounds for surrendering the certificate have fully been mentioned in the statement
accompanying this application.

Dated:

Signatures:

Name:

Designation:

Institute/Organization:

To,

The Registrar
The Plant Breeders' Rights Registry
Islamabad

Government of Pakistan
Plant Breeders' Rights Registry

NOTICE OF OPPOSITION TO SURRENDER OF
CERTIFICATE OF PROTECTION

I/We being the registered agent or licensee of plant variety of
crop having registration No registered
onby virtue of this notification hereby oppose the surrender of
certification of protection offered by by intention shown
through the notice received to me/us on
dated

The Reasons/grounds of opposition have fully been stated in the documents accompanying
to this notice.

My/our address for future communication is as under;

Dated:

Signatures:

Name:

Designation:

Institute/Organization:

To,
The Registrar
The Plant Breeders' Rights Registry
Islamabad

Government of Pakistan
PLANT BREEDERS' RIGHTS REGISTRY

APPLICATION FOR BENEFIT SHARING

I/we, hereby apply that my/our name(s) may be registered as person(s) entitled to benefit sharing in respect of the plant variety with the registration No.

The grounds for my/our being entitled to benefit sharing are given below;

1:

2:

3:

The details of the plant variety in respect of which I/we am/are claiming benefit sharing are as follows;

Crop (Common and Botanical Name):

Denomination of Plant Variety:

Registration No:

Address stated in the application:

I/We submit the following documents accompanying to this application in proof of my claims for the benefit sharing in respect of plant variety whose details have been furnished in the application;

My/our address for future communication in this matter is given as under;

.....

.....

Dated

(Signature of the Applicant):

Name:

CNIC:

Place:

To
The Registrar
The Plant Breeders Rights Registry
Islamabad

Government of Pakistan
Plant Breeders Rights Registry

NOTICE OF OPPOSITION TO CLAIM OF BENEFIT SHARING

I/We Resident ofhereby give notice of opposition to the Application for benefit sharing made by/on behalf of.....and in respect of the protected plant variety..... registration No..... dated

The grounds on which the said application for benefit sharing is opposed are as follows:-

- 1.....
- 2.....
- 3.....

In support of my/our opposition, I/we hereby enclose herewith copies of the following documents:-

- 1.....
- 2.....
- 3.....

My/our address for future correspondence in this matter is as follows;

.....

Dated -----

Signature
Name:
Designation:
Organization:

To
The Registrar
The Plant Breeders Rights Registry
Islamabad

Government of Pakistan
Plant Breeders Rights Registry

GRANT OF COMPULSORY LICENSE

I/We,----- hereby
apply for the grant of compulsory license for plant variety with denomination-----
belonging to crop-----, having registration No----- registered on ----

The Grounds for grant of compulsory License are as follows;

1. the reasonable requirements of the public for seeds or other propagating material of the variety have not been satisfied;
2. the seeds or propagating material of the variety not available to the public at reasonable price; and
3. Any other.

Certified copies of the following documents in support of my/our request are accompanying the application;

- 1.....
- 2.....
- 3.....

It is declared that the facts and matters stated herein are true to the best of my/our knowledge, information and belief.

For any future correspondence in this matter my/our postal address is as follows;
.....

Dated

Signature
Name:
Designation:
Organization:

To
The Registrar
The Plant Breeders Rights Registry
Islamabad

Government of Pakistan
Plant Breeders Rights Registry

NOTICE OF OPPOSITION TO APPLICATION
FOR COMPULSORY LICENSE

I/We _____ hereby
give notice of opposition to the application for compulsory license made by/on behalf of

in respect of the protected plant variety _____ of crop _____, having
registration No _____ dated _____.

The grounds for opposition are as follows:-

1. -----
2. -----
3. -----

In support of my/our opposition, I/we hereby enclose herewith certified copies of the
following documents:-

1. -----
2. -----
3. -----

My/our address in Pakistan is

Dated -----

Signature
Name:
Designation:
Organization:

To
The Registrar
The Plant Breeders Rights Registry
Islamabad

Government of Pakistan
Plant Breeders Rights Registry

APPLICATION FOR REVOCATION OF COMPULSORY LICENSE

I/We _____

hereby request for revocation of compulsory license granted to-----

in respect of plant variety with denomination-----,

of crop-----having registration No: -----dated-----.

The reasons for request for revocation of compulsory license are;

1. Violation of terms and conditions of compulsory license;
2. Inappropriate to continue license in public interest; and
3. Any other

The certified copies of all the relevant documents are enclosed herewith in support of my/our grounds for revocation.

It is declared that the facts and matters stated herein are true to the best of my/our knowledge, information and belief.

My/Our address in Pakistan is

Dated -----

Signature
Name:
Designation:
Organization:

To
The Registrar
The Plant Breeders Rights Registry
Islamabad

Schedule-II

Fees for matters in respect of grant of Plant Breeders' Rights

Sr.	Matters of Fee	Amount of Fee (PKR)	Amount of Fee (USD)
(1)	Application Charges	Rs. 10,000	\$ 100
(2)	Request for change in application	Rs.1000	\$ 10
(3)	Application for change in denomination	Rs.1000	\$ 10
(4)	Preliminary examination of application	Rs. 10,000	\$ 100
(5)	Conducting Tests including DUS and or other Tests	up to a maximum of Rs. 50,000 per entry	\$ 500
(6)	Notice of Opposition	Rs. 5000	\$ 50
(7)	Extension of Time	Rs. 1500 per month	\$ 15/month
(8)	Fees for Registration of Essentially Derived Varieties	Rs. 20,000	\$ 200
(9)	Annual Fee	Rs. 10,000	\$ 100
(10)	Application for claim of benefit Sharing	Rs.5000	\$ 50
(11)	Application for Registering as Agent/Licensee	Rs. 10000	\$ 100
(12)	Application for making any change in the Register	Rs. 1000	\$ 10
(13)	Issuance of protection certificate	Rs.10,000	\$ 100
(14)	Application for issuance of duplicate certificate	Rs.5,000	\$ 50
(15)	Charges for re-issuance of certificate after making corrections	Rs.5,000	\$ 50