

# Seeds (Registration of Variety) Regulations 2022

**GN No. 228 of 2022**

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## **THE SEEDS ACT**

**Regulations made by the Minister, after consultation with the National Plant Varieties and Seeds Committee, under section 33 of the Seeds Act**

### **1. Short title**

These regulations may be cited as the **Seeds (Registration of Variety) Regulations 2022**.

### **2. Interpretation**

In these regulations -

"Act" means the Seeds Act;

"applicant" means a person who makes an application under regulation 7(1);

"DUS test" means a test of distinctness, uniformity and stability, based on the criteria of the International Union for the Protection of New Varieties of Plants (UPOV);

"holder of registration certificate" means a person who is issued with a certificate of registration under regulation 9(3)(b);

"National Variety List" means the list referred to in section 9 of the Act;

"subcommittee" means the National Variety Release Subcommittee set up under regulation 4;

### **3. Application and exemptions**

(1) These regulations shall apply to the kinds of plant listed in Part I of the First Schedule.

(2) Pursuant to section 3(2) of the Act, these regulations shall not apply to the kinds of plant listed in Part II of the First Schedule.

(3) Regulation 6(1) shall not apply to varieties of common knowledge in Mauritius at the time of coming into operation of these regulations and which are subject to regulation 12(1).

(4) The Minister may, on the advice of the Seeds Committee, modify the list set out in the First Schedule to include or exempt additional kinds of plants.

### **4. National Variety Release Subcommittee**

(1) Pursuant to section 6(3)(i) of the Act, the Seeds Committee shall set up a subcommittee to be known as the National Variety Release Subcommittee.

(2) The subcommittee shall consist of at least 3 persons, to be appointed by the Seeds Committee, who have wide knowledge in the testing of varieties and related issues.

(3) The subcommittee may co-opt any person who has knowledge of particular crops according to the varieties that are to be considered for registration.

(4) The subcommittee shall, in consultation with the Seeds Committee -

- (a) determine those tests that are required to be carried out on any variety that is submitted for registration;
- (b) review and recommend the protocols and technical guidelines prepared by NPVSO for the conduct of DUS tests and any other test that may be required by the subcommittee;
- (c) approve the institutions or persons who may be authorised to carry out the tests referred to in paragraph (b);
- (d) maintain oversight of the variety testing and registration process and make recommendations to the Seeds Committee as may be necessary to improve the efficiency of the process.

## **5. National Plant Variety and Seeds Office (NPVSO)**

(1) Pursuant to sections 4(2) and 7 of the Act, NPVSO shall, under the direction of the National Variety Release Subcommittee -

- (a) prepare technical guidelines and protocols for the testing of varieties;
- (b) prepare guidelines in respect of the application for the registration of a variety;
- (c) receive applications for the registration of varieties;
- (d) as determined by the Seeds Committee or the subcommittee under regulation 4(4)(a), cause such tests to be carried out on any variety for the purpose of registration;
- (e) determine the particulars of any registered variety that shall be entered in the National Variety List;
- (f) establish, maintain and publish the National Variety List;
- (g) maintain key statistical information relating to seed production; and
- (h) do such other things as may be necessary for the purposes of implementing these regulations.

(2) With respect to paragraph (1)(e) and (f), and subject to approval of the National Seed Committee, the National Variety List may be arranged and published in sections according to the different characteristics of the kinds of plant or varieties that are registered.

## **6. General conditions for registration of a variety**

- (1) Subject to paragraph (2) no variety of any kind of plant shall be registered -
- (a) unless the candidate variety is clearly distinguishable in one or more important characteristics capable of precise recognition and definition from any other variety of the same kind of plant of which the existence is a matter of common knowledge at the time of the filing of an application for registration;
  - (b) unless the candidate variety is sufficiently uniform with regard to its characteristics, subject to the variation that may be expected from the particular features of the propagation of the variety;
  - (c) unless the candidate variety remains unchanged after repeated propagation or multiplication or, in the case of a particular cycle of propagation or multiplication, at the end of each such cycle;
  - (d) unless the variety is identified by a variety name which complies with such requirements as NPVSO may determine;
  - (e) where the variety or its progeny may be detrimental to human or animal health and safety or to the environment when grown and used as intended.
- (2) Paragraph (1)(a), (b), (c) and (d) shall not apply in respect of a variety to be cultivated solely for export.

## **7. Application for registration of variety**

- (1) For the purpose of section 8(2) of the Act, a person who wishes to register a variety of any kind of plant shall make an application to NPVSO in the form set out in the Second Schedule.
- (2)(a) An application made under paragraph (1) shall -
- (i) be submitted by the breeder of the variety who shall, subject to subparagraph (b), be a citizen or resident of, or has a registered office in, Mauritius;
  - (ii) be accompanied by a summary technical description of the variety as specified in the form set out in the Second Schedule;
  - (iii) be accompanied by the appropriate non-refundable application fee as specified in the Fourth Schedule; and
  - (iv) be accompanied by such other document or information as NPVSO may determine.
- (b) Where the breeder is not a citizen or resident of Mauritius, or does not have a registered office in Mauritius, the application shall be submitted through an agent or representative who shall be a resident in Mauritius.

(3)(a) Where the name of a variety proposed by the applicant does not comply with the requirements of NPVSO or the name resembles that of the name of another registered variety, or the name may cause confusion, NPVSO shall request the applicant to submit another name.

(b) Where, pursuant to subparagraph (a), the applicant fails to submit another name within a period of 30 days from the request, the application shall lapse.

(c) Where an application is made in respect of a variety that is imported from another country, the name that is proposed for registration shall not be different from that which is used in that country unless there is a valid reason for making such a change.

(4)(a) Where an application complies with these regulations, NPVSO shall notify the applicant of its decision and shall -

- (i) request the applicant to submit a seed sample of the variety of specified size for reference and testing purposes;
- (ii) inform the applicant of the testing fee as specified in the Fourth Schedule;
- (iii) request the applicant to submit any other information that may be relevant to the testing and registration of the variety.

(b) The applicant shall comply with the requirements specified in paragraph (4)(a) within a period of 3 months from the date when the notification was issued by NPVSO.

(c) Where the applicant does not comply with the requirements specified in paragraph (4)(a) within that period, the application shall lapse.

(d) The applicant may withdraw the application at any time but the testing fee paid shall not be refundable.

(5)(a) Unless otherwise determined by the Seeds Committee, any variety that is listed in another regional variety catalogue shall be eligible for provisional registration and may be included in the National Variety List without further testing.

(b) Where a variety is submitted for registration under subparagraph (a), the applicant shall be required to follow the procedures in accordance with paragraph (2) and shall indicate the list in which the variety has been registered.

(6) Where a variety has been released and is in regular use in another country, an applicant may submit details about the variety as a supplement to the form shown in the Second Schedule and may request that the variety be added to the National Variety List on a provisional basis.

(7) (a) Where an application for registration is submitted according to the procedure described in paragraph (5) or (6) and provisional registration of the variety is granted, NPVSO may request that the applicant conduct a verification trial of the variety.

(b) The applicant shall then inform NPVSO of the location of the trial and such other details as may be required to enable an inspection of the trial during the growing season.

(8) The conditions relating to provisional registration referred to subparagraphs (5) and (6), and the protocol for a conducting verification trial referred to in subparagraph (7) shall be specified by NPVSO in accordance with regulation 5(1)(a).

## **8. Testing of variety**

(1) Where an applicant complies with regulation 7(4)(a), NPVSO shall arrange for such DUS tests to be carried out on the variety as may be necessary and in accordance with the guidelines issued by NPVSO.

(2) Where all necessary tests have been completed, NPVSO shall prepare a summary of the results and shall forward them to the subcommittee together with a preliminary recommendation.

(3) The subcommittee shall review the results and recommendations provided by NPVSO and shall forward its decision to the Seeds Committee.

## **9. Grant or rejection of application**

(1) Where the testing and review procedures specified in regulation 8 have been completed satisfactorily, NPVSO shall, on the recommendation of the Seeds Committee, grant or reject the application and shall forthwith notify the applicant of its decision.

(2) Where the procedures specified in regulation 7(5) have been followed in respect of a variety that is already registered in a Regional Catalogue, the subcommittee shall recommend for the grant of a certificate of registration to NPVSO.

(3) Where NPVSO grants an application under paragraph (1), it shall, on payment of the appropriate fee specified in the Fourth Schedule -

(a) register the particulars of the variety in the National Variety List on such terms and conditions as it may determine; and

(b) issue a certificate of registration to the applicant in the form set out in the Third Schedule.

(4) A certificate of registration shall be valid for a period of 10 years from the date of issue.

(5)(a) At any time during the period of registration, the holder of the certificate or their legal successor may request in writing to NPVSO that the variety be removed from the National Variety List.

(b) No refund of the registration fee shall be made in case a variety is removed from the National Variety List pursuant to paragraph (a).

(6) (a) Where NPVSO rejects an application under paragraph (1), it shall, within 10 days of its decision, inform the applicant in writing stating the reasons for the rejection.

(b) Where the applicant is aggrieved by the decision of NPVSO, he may make an appeal to the Minister within 30 days of receipt of the decision in accordance with the Seeds (Appeal Board) Regulations 2022.

## **10. Cancellation or suspension of registration**

(1) NPVSO may, subject to the approval of the Seeds Committee, cancel or suspend the registration of a listed variety for the reasons specified in section 10(1) of the Act.

(2) No such cancellation or suspension shall be made unless the holder of the registration certificate has been given a reasonable opportunity of being heard in respect of the grounds of such cancellation or suspension, as the case may be.

(3) (a) Where NPVSO suspends or cancels the registration of a variety under paragraph (1), it shall, within 30 days of such decision, inform the holder in writing, stating the reasons for the decision.

(b) Where the holder of a registration certificate is aggrieved by the decision of NPVSO, he may, within 30 days of receipt of the decision, make an appeal to the Minister in accordance with the Seeds (Appeal Board) Regulations 2022.

## **11. Renewal of registration**

(1) An application for the renewal of a certificate of registration shall be made by the holder of the certificate not later than 3 months before the date of its expiry, in the form set out in the Second Schedule.

(2) NPVSO may renew a certificate of registration on payment of the appropriate renewal fee specified in the Fourth Schedule for a further period of 10 years and on such other terms and conditions as it may determine.

## **12. Transitional and saving provisions**

(1) Any variety that has been released and is maintained by the Ministry, the Mauritius Cane Industry Authority, the Agricultural Marketing Board, or the Food and Agricultural Research and Extension Institute and that is available in the market on the coming into operation of these regulations, shall be deemed to be registered and NPVSO shall enter the particulars of that variety in the National Variety List without further testing.

(2) Any variety that has been legally imported and made available in the market before the coming into operation of these regulations may, within a period of twelve months from the commencement of these regulations, be submitted for registration in the National Variety List without further testing.

(3) Notwithstanding paragraphs (1) and (2), NPVSO may request the submission of a sample of a variety and any further information specified in regulation 7(4)(a)(i) and (iii) where this is considered necessary to determine the characteristics of a variety so listed.

### 13. Offence

Any person who contravenes these regulations shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

### 14. Commencement

These regulations shall come into operation on 1 September 2022.

Made by the Minister, after consultation with the National Plant Varieties and Seeds Committee, on 4 July 2022.

## FIRST SCHEDULE

[Regulation 3]

### PART 1 — LIST OF SPECIES TO WHICH THESE REGULATIONS SHALL APPLY

Botanical name	Crop name
<b>Legumes</b>	
<i>Phaseolus vulgaris</i>	French/haricot bean
horticultural crops	
<i>Allium cepa</i>	Onion
<i>Cucumis sativus</i>	Cucumber
<i>Cucurbita pepo</i>	Squash
<i>Cucurbita maxima</i>	Pumpkin
<i>Solanum lycopersicum</i>	Tomato
<b>Tubers and Vegetatively Propagated Crops</b>	
<i>Solanum tuberosum</i>	Potato

### PART II— EXEMPTIONS TO THE REGULATIONS

These regulations shall not apply to the following -

- (a) plants of perennial tree fruits;
- (b) plants that are cultivated only for amenity or decorative purposes;
- (c) plants that are cultivated for medicinal purposes;
- (d) plants that are part of the natural flora of Mauritius;

- (e) plants of the leguminosae family with exception of *Phaseolus vulgaris*;
- (f) plants of the Horticultural varieties with exception to *Allium cepa*, *Cucumis sativus*, *Cucurbitapepo*, *Cucurbita maxima* and *Solanum lycopersicum*;
- (g) plants that are vegetative propagated in Mauritius with exception of potato;
- (h) fungi;
- (i) seaweeds.

**SECOND SCHEDULE**

[Regulations 7(1) and 11(1)]

**APPLICATION FORM FOR REGISTRATION OF VARIETY**

Name of applicant .....

Address of applicant .....

Telephone no..... Mobile no. ....

Fax no. .... Email address.....

Details of the variety to be registered

Botanical name of the species .....

Common name of the crop .....

Name of the variety .....

Breeder or owner of the variety .....

Source of seed to be imported (if different from above) .....

.....

If the variety is in use in another country, please state which country/countries\*

.....

If the variety is registered in a national or regional list, please state which

.....

Key attributes of the variety that justify its cultivation in Mauritius

Agronomic/cultural attributes .....



Consumer/market attributes .....

Additional information about the variety may be continued on a separate sheet.

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Signature of Applicant

Date

**THIRD SCHEDULE**

[Regulation 9(3)(b)]

**CERTIFICATE OF REGISTRATION IN  
THE NATIONAL VARIETY LIST**

This is to certify that the variety named below has been examined according to the procedures set out in the Seed (Registration of Variety) Regulations 2022 and has been accepted for release and commercial use.

On payment of the required registration fee by the applicant, the variety will be included in the National Variety List.

Crop.....

Variety name .....

Breeder/owner of variety .....

Country of origin or first release .....

Certificate Number .....

.....

.....

Signature of Head NPVSO

Date

.....

Office stamp

## **FOURTH SCHEDULE**

[Regulations 7(4)(a)(ii); 9(3) (b) and 1] (2)]

### **F E E S**

	<b>(Rs)</b>
1. Application and testing fee	100
2. Registration fee	50
3. Renewal fee	20