

x) where an application for plant breeders' rights with regard to the candidate plant variety has been made or granted in any other UPOV member, the filing date, the identification number and the status at the time of the current application must be stated

xi) priority is being claimed according to provisions of the section 17 of the Act, the name of the UPOV member, filing date and identification data must be stated. Priority documents to be certified

xii) the date of the sale and denomination, if different from the proposed denomination where the plant variety has been sold within or outside Saint Vincent and the Grenadines;

xiii) The name of the UPOV member and starting date where a DUS testing with regard to the candidate plant variety has been carried out or will be carried out.

2. Information provided to the Registrar shall be made under oath asserting that the information is true according to their knowledge.

3. The application form shall be signed by the applicant or authorized agent electronically or in ink.

4. The right of a breeder of a plant variety to apply for a plant Right to apply for breeder's right is personal property and is capable of assignment or of plant breeder's transmission in the same way as any other personal property.

Conditions for obtaining Protection

There are certain conditions for obtaining protection: The variety must be novel, distinct, uniform and stable.

(1) A plant variety is new if, at the date of filing of the application, harvested or propagating material of the plant variety has not been sold otherwise disposed of to another person, by or with the consent of the breeder for the purposes of exploiting of the plant variety—

- (a) in St. Vincent and the Grenadines, earlier than one year before the date the application is made;
- (b) Outside of Saint Vincent and the Grenadines—

(i) in the case of trees or vines, earlier than six years before the date the application is made; and

(ii) in any other case, earlier than four years before the date the application is made.

(2) A plant variety is distinct if the plant variety is clearly distinguishable from any other plant variety whose existence is a matter of common knowledge at the date the application is made.

(3) A plant variety is stable if its relevant characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each cycle.

(4) A plant variety is uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in its relevant characteristics.

Duration of Protection

- Trees and Vines — 25 years
- Any other variety — 20 years

The Commerce and Intellectual Property Office now accepts applications for new plant varieties. The application form can be downloaded at www.cipo.gov.vc or can be obtained at the office.

Applications can also be submitted using UPOV Prisma.

© CIPo 2021



First Floor, Brewster's Building
Granby Street, Kingstown
St. Vincent and the Grenadines

Tel: (784) 4561516 /451-2894
Email: cipovg@vincysurf.com
Website: www.cipo.gov.vc

This brochure offers guidance on the registration of a Plant Variety under the Laws of St. Vincent and the Grenadines. For a more complete understanding of the provisions referenced in this document, the Act should be consulted.

What is a Plant Variety?

A Plant Variety represents a precisely defined group of plants selected from within a species with a common set of characteristics.

A Plant Variety means a plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a plant breeder's right are fully met, can be-

- (a) defined by the expression of the characteristics resulting from a given genotype;
- (b) Distinguished from any other plant grouping by the expression of at least one of those characteristics; and
- (c) Considered as a unit with regard to its suitability for being propagated unchanged.

A plant includes all fungi and algae but does not include bacteria, bacterioids, mycoplasmas, viruses, viroids and bacteriophages.

Plant Breeders Protection Act

The Plant Breeders Protection Act was passed in St. Vincent and the Grenadines on the 31st day of December, 2019.

The Act provides the basis for granting breeders of new plant varieties, an intellectual property right called the Breeders Rights.

UPOV

The mission of UPOV is to provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society.

St. Vincent and the Grenadines became the 77th member of The International Convention for the Protection of New Varieties of Plants on the 22nd day of March, 2021.

Importance of Plant Breeders Legislation

Plant breeding is a long and expensive process and breeders require protection to recover their investment.

Benefits of Plant Varieties Protection

The Agricultural sector is the backbone of the economy and employment in most developing countries. An effective plant variety protection (PVP) system is the key for investment in breeding and the development of new varieties of plants.

One of the reasons for poor agricultural performance in many developing countries is a lack of progress in improving the performance of traditional plant varieties over the centuries.

New varieties of plants with features such as yield, high quality and resistance to plant pests and diseases are a key element in increasing productivity and product quality in agriculture, horticulture and forestry, whilst minimizing the pressure on the natural environment.

The tremendous progress in agricultural productivity in various parts of the world is largely based on improved varieties. The International Convention for the Protection of New Varieties of Plants made provision for the establishment of the International Union for the protection of New Varieties of Plants (UPOV).

Plant Varieties Protection can have several benefits to St. Vincent and the Grenadines. It will further:

1. Increase breeding activities,
2. Make available improved plant varieties for farming,
3. Increased number of new varieties, diversification of types of breeders (private breeders, researchers)
4. Increased number of foreign new varieties, encouraging development of a new industry competitiveness on foreign markets, and
5. Improved access to foreign plant varieties.

Application

Who may apply?

A breeder of a plant variety may apply to the Registrar for a plant breeder's right.

It is not permitted for someone other than the breeder to obtain protection of a variety. There are no restrictions on who can be considered to be a breeder under the UPOV system: a breeder might be an individual, a farmer, a researcher, a public institute, a private company etc.

The application must be submitted in writing and be in the prescribed form.

A breeder may be:

- (a) a citizen of Saint Vincent and the Grenadines;
- (b) a resident of Saint Vincent and the Grenadines; and
- (c) The plant variety must be bred in Saint Vincent and the Grenadines.

If two or more persons bred a plant variety jointly, those persons or some of them may apply jointly for a plant breeder's right. If two or more persons bred a plant variety jointly, one of those persons is not entitled to apply for a plant breeder's right otherwise than jointly with, or with the consent in writing of, each other of those persons.

Where the Registrar is satisfied that a variety was bred by two or more persons independently and two or more applications are made, the Plant Breeders Right will be granted to the first applicant.

The application is required to contain the following information:

- i) The name of the applicant-
 - a. A natural person shall be indicated by the person's family name, followed by the given name or names;
 - b. A legal person shall be indicated by its full official designation;
- ii) The complete address of the applicant or agent or legal representative, where applicable. Within Saint Vincent and the Grenadines, in a manner to satisfy the customary requirements for prompt postal delivery at the address specified;
- iii) Facsimile and telephone numbers;
- iv) An electronic address to receive notifications by electronic means;
- v) The Nationality of the applicant shall be indicated by the name of the State of which a person is national. Legal persons shall indicate the name of the State under whose laws there are constituted and their registered office;
- vi) the botanical taxon and common names of the plant variety;
- vii) the proposed denomination;
- viii) the provisional denomination or breeder's reference, where appropriate;
- ix) the name of the natural person who bred, or discovered and developed the plant variety;