

রেজিস্টার্ড নং ডি এ-১ “জাতির পিতা বঙ্গবন্ধু শেখ মুজিবুর রহমানের
জন্মশতবার্ষিকী উদযাপন সফল হোক”

বাংলাদেশ



গেজেট



অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, জুন ১০, ২০২১

Government of the People's Republic of Bangladesh
Ministry of Agriculture

NOTIFICATION

Dated: 3 June, 2021

S.R.O No. 185-Law/2021.—In exercise of the powers conferred by section 39 of the Plant Varieties Protection Act, 2019, the Government is pleased to publish the following English Text of the Act to be called the Authentic English Text of the Act:

The Plant Varieties Protection Act, 2019

Act No. VI of 2019

An Act to make provisions for the establishment of the Plant Varieties Protection Authority, protection and registration of plant varieties, protection of the rights of plant breeders and farmers and the matters ancillary thereto

WHEREAS the contributions of farmers and plant breeders to the agricultural development and food security are very important;

WHEREAS it is necessary to promote, guide and support the farmers to bring the benefits of plant research, varietal development, seed production, utilization, distribution, marketing, export, breeding and protection of varieties of plants to the farmers effectively;

(৮৭৮৯)

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WHEREAS it is expedient to recognise the contributions of plant breeders and farmers to the development of plant varieties and breeding efforts in public and private sectors for the protection of plant genetic resources;

WHEREAS the People's Republic of Bangladesh is a member of the World Trade Organization and committed to comply with the Agreement on Trade-Related Aspects of Intellectual Property Rights; and

WHEREAS Bangladesh is committed to comply with the Convention on Biological Diversity and the International Treaty on Plant Genetic Resources for Food and Agriculture; and

WHEREAS, by taking into consideration the above mentioned matters, it is expedient and necessary to make provisions for the establishment of a Plant Varieties Protection Authority, protection and registration of plant varieties, protection of the rights of plant breeders and farmers and the matters ancillary thereto;

It is hereby enacted as follows:—

CHAPTER I Preliminary, etc.

1. **Short title and commencement.**—(1) This Act may be called the Plant Varieties Protection Act, 2019.

(2) It shall come into force on such date as the Government may, by notification in the official *Gazette*, appoint.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

- (1) “**essentially derived variety**” means a variety which has been derived from another primary variety through propagation or transformation, wherein the expression of the following essential characteristics of genotype or recombination of genotypes of primary variety are retained, namely:—
 - (a) the developed variety is clearly distinguishable or different from the primary variety; and
 - (b) the developed variety conforms to the primary variety in the expression of essential characteristics;

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- (2) “**Authority**” means the Plant Varieties Protection Authority established under section 4;
 - (3) “**farmer**” means any person living in Bangladesh who—
 - (a) cultivates crops or plant in his own land or other’s land or in any cultivable land; or
 - (b) directly supervises the cultivation works by appointing any other person; or
 - (c) protects and improves, severally or jointly with any other person, any wild species or widely grown and traditional varieties, that is landraces, which are being cultivated for a long time through selection and identification for their superior characteristics;
 - (4) “**farmers’ right**” means the rights referred to in section 23;
 - (5) “**farmers’ variety**” means a variety which—
 - (a) has been invented by the farmers and is traditionally cultivated in their own fields; and
 - (b) is related to a wild variety or landrace inventor of which is unknown but about which the farmers possess common knowledge;
 - (6) “**genetic resources**” means the whole or any part of plant or any reproductive part thereof like seed, vegetative part, tissue, cell, gene and genomic deoxyribonucleic acid (DNA) sequence; and shall also include all races of a specific species;
 - (7) “**company**” means a company as defined in clause (d) of subsection (1) of section 2 of the Companies Act, 1994 (Act No. XVIII of 1994);
 - (8) “**Chairman**” means the Chairman of the Authority;
 - (9) “**variety**” means the variety referred to in clause (3) of section 2 of the Seed Act, 2018 (Act No. VI of 2018);
 - (10) “**National Seed Board**” means the National Seed Board constituted under section 3 of the Seed Act, 2018 (Act No. VI of 2018);

- (11) “**GMO (Genetically Modified Organism)**” means the Genetically Modified Organism developed through modification or transformation by gene technology at molecular level and capable of producing new characteristics or new cycle of expression;
- (12) “**nomenclature**” means the name of the concerned variety or its seeds or reproductive part expressed by letters or combination of letters and numbers written in any language;
- (13) “**register**” means the register referred to in section 15;
- (14) “**prescribed**” means prescribed by rules or, as the case may be, by regulations;
- (15) “**breeder**” means a person who—
 - (a) has bred or developed a variety which is contemporarily new in Bangladesh;
 - (b) is the appointing authority of the person mentioned in clause (a) or who has appointed him for breeding or developing varieties; or
 - (c) is the heir of the person mentioned in clause (a) or (b) or, where applicable, his successor;
- (16) “**regulations**” means regulations made under this Act;
- (17) “**seed**” means the seed referred to in clause (12) of section 2 of the Seed Act, 2018 (Act No. VI of 2018);
- (18) “**rules**” means rules made under this Act;
- (19) “**Board**” means the Board of Directors constituted under section 8 of this Act;
- (20) “**Registrar**” means the Registrar appointed under section 12; and
- (21) “**protected variety**” means the plant variety registered in accordance with the provisions of section 15.

3. **Act to override other laws.**—Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall prevail.

CHAPTER II**Establishment of the Authority, management, functions, Board, etc.**

4. **Establishment of the Authority.**— (1) As soon as may be after the commencement of this Act, the Government shall, by notification in the official *Gazette*, establish an Authority to be called the ‘Plant Varieties Protection Authority’.

(2) The Authority shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of properties, both movable and immovable, and shall by the said name sue and be sued.

5. **The office of the Authority.**—(1) The head office of the Authority shall be at such place as the Government may determine.

(2) The Authority may, if necessary, establish its branch office at any place of Bangladesh with the prior approval of the Government.

6. **Powers and functions of the Authority.**—For the purposes of this Act, the powers and functions of the Authority shall be as follows, namely:—

- (a) to identify, publish and circulate the genus and species of plant ;
- (b) to register plant varieties for protection, issue registration certificate and cancel the registration for contravening any provision of this Act, or rules or regulations made thereunder;
- (c) to determine the evaluation procedure of the application for the protection of plant varieties;
- (d) to exchange the information in respect of the protection of plant varieties and to establish the regional and international cooperation for evaluation of plant varieties in more advanced way;
- (e) to determine the rights of breeders and validity of such rights and limit or, as the case may be, suspend or cancel the rights or to determine the procedure of similar matters and implement the same;

- (f) to take initiative to enforce the rights of farmers, individuals, groups or breeders;
- (g) to issue certificate and give award in recognition of the contribution to the innovation and development of varieties;
- (h) to properly implement the Act or rules or regulations made thereunder and regularly monitor and evaluate it;
- (i) to prepare the annual report on overall activities and present the same to the Government;
- (j) to do all other acts and things ancillary or incidental to the aforesaid functions for the purposes of this Act; and
- (k) to perform such other duties and functions as the Government may, from time to time, confer.

7. **General direction and administration.**—The general direction and administration of the Authority shall vest in the Board, and the Board may exercise all such powers and perform all such functions as may be exercised and performed by the Authority.

8. **Constitution of the Board of Directors.**—(1) There shall be a Board of Directors of the Authority consisting of the following members, namely:—

- (a) the Chairman, who shall also be its President;
- (b) a representative, not below the rank of Deputy Secretary of the Research Wing of the Ministry of Agriculture, to be nominated by the Ministry;
- (c) the Director (Field Services Wing), Department of Agricultural Extension;
- (d) the Member Director (Crops), Bangladesh Agricultural Research Council;
- (e) the General Manager (Seed), Bangladesh Agricultural Development Corporation;
- (f) the Director (Research), Bangladesh Agricultural Research Institute;

- (g) the Director (Research), Bangladesh Rice Research Institute;
- (h) the Director (Research), Bangladesh Jute Research Institute;
- (i) the Director (Research), Bangladesh Institute of Nuclear Agriculture;
- (j) a Professor experienced in the field of plant varieties, to be nominated by the Vice-Chancellor of the Bangabandhu Sheikh Mujibur Rahman Agricultural University;
- (k) the Director, Seed Certification Agency;
- (l) a representative, not below the rank of Senior Scientific Officer, to be nominated by the National Institute of Biotechnology;
- (m) a representative, not below the rank of Senior Scientific Officer, to be nominated by the Bangladesh National Herbarium;
- (n) the Chief Seed Technologist, Ministry of Agriculture;
- (o) a representative to be nominated by the Bangladesh Seed Association;
- (p) a representative to be nominated by the Plant Breeding and Genetics Society of Bangladesh; and
- (q) the Registrar, Plant Varieties Protection Authority, who shall also be its Member-Secretary.

(2) The members nominated under clauses (j), (o) and (p) of sub-section (1) shall hold office for a term of 3 (three) years from the date of their nomination:

Provided that the Government may, before expiry of such term, in the public interest, discharge any member nominated, without showing any cause, and the members so nominated may also resign their office at any time, by writing under their hands, addressed to the Chairman.

9. Meetings of the Board, etc.—(1) The Board may, subject to the other provisions of this section, determine the procedure of its meetings.

(2) All meetings of the Board shall be presided over by the Chairman, and in his absence, by the member appointed by the Government for discharging the functions of the Chairman, but if such member is not appointed, the senior most member of the Board shall preside over the meeting.

(3) At least one meeting of the Board shall be held in every 6 (six) months, however, in case of emergency, a meeting of the Board may be called for by a short notice.

(4) The meetings of the Board shall be convened by the Member-Secretary with the consent of the Chairman and shall be held on such date, time and place as may be determined by the Chairman.

(5) To constitute a quorum at a meeting of the Board, the presence of at least one-third of the total members of the Board shall be required, but in case of an adjourned meeting, no such quorum shall be required.

(6) At a meeting of the Board, each member shall have one vote, but in the event of equality of votes, the person presiding over shall have a second or casting vote.

(7) No act or proceeding of the Board shall be invalid or be called in question merely on the ground of the existence of any vacancy in, or any defect of the constitution of, the Board.

10. Chairman of the Authority.—(1) There shall be a Chairman of the Authority.

(2) The Chairman shall be the full-time and Chief Executive of the Authority.

(3) The Chairman shall be appointed by the Government and the tenure, terms and conditions of his service shall be determined by the Government.

(4) If any vacancy occurs in the office of the Chairman or if he is unable to perform the functions of his office on account of absence, illness or any other cause, any member appointed by the Government shall act as Chairman until a newly appointed Chairman takes over the charge of his office or until the Chairman resumes the function of his office.

11. Duties and functions of the Chairman.—(1) The Chairman shall be responsible for performing the following duties in accordance with the provisions of this Act or rules or regulations made thereunder, namely:—

- (a) to exercise the powers conferred under this Act for efficient performance of all functions of the Authority;
- (b) to perform all functions necessary for efficient management and administration of the Authority;
- (c) to regulate all employees of the Authority and the activities thereof;
- (d) to implement the decisions of the Board of Directors of the Authority; and
- (e) to perform such other functions as may be assigned to him by the Board, from time to time.

(2) The Chairman shall be responsible to the Government for performing the functions and exercising the powers conferred upon him.

12. Registrar of the Authority.—(1) There shall be a Registrar of the Authority who shall be appointed from amongst the Deputy Secretaries or officers of the same rank of the Government.

(2) The Registrar shall perform such duties and functions as may be assigned by the Authority and shall be responsible to the Chairman for the functions discharged by him.

13. Appointment of employees.—(1) The Authority may, according to the organogram approved by the Government, and in conformity with such general and special directions as may be issued by the Government, from time to time, appoint such number of employees as may be necessary for efficient performance of its functions.

(2) The terms and conditions of the service of the employees of the Authority shall be prescribed by regulations.

CHAPTER III**Plant genus and species, registration of varieties, protection, etc.**

14. **Determination of genus and species of plants, etc.**— (1) For the purposes of this Act, the Authority may, by notification in the official *Gazette*, determine the genus and species of plants.

(2) The Authority may regularly update, preserve and make arrangement to publish the genus and species of plants specified under sub-section (1) in the website.

Explanation.—For the purposes of this section, ‘plant genus’ means the plant genetic resources or plant varieties which are usable and are economically important in agriculture, food, medicine, nutrition and environment conservation.

15. **Registration of protected plant varieties, etc.**—(1) For the purposes of this Act, any variety developed by a breeder shall be compulsorily registered as developed variety or farmers’ variety and protected GMO variety.

(2) For registration as protected variety under sub-section (1), an application shall be made to the Authority in such manner and form as may be prescribed by rules.

(3) The application made under sub-section (2) shall be furnished with such fees as may be prescribed by rules, and the statement of technical and breeding method of the protected variety shall be submitted in such form as may be prescribed.

(4) The application made under sub-section (2) shall be properly evaluated in such manner as may be prescribed by rules.

(5) The Authority shall issue the registration certificate as a protected variety of the plant if the application evaluated under sub-section (4) is found to be appropriate.

(6) The protected variety registered under this section shall be recorded in a register with necessary information in both manual and digital methods.

(7) Any person who wants to collect information in respect of a protected variety shall have to make an application to the Registrar of the Authority and the Authority may provide the information to the person concerned.

(8) If any breeder desires not to disclose the information of protected variety registered by his name in the register referred to in sub-section (6), he shall have to inform it to the Authority in writing and the Authority may, if it deems fit, marks it as confidential.

(9) Notwithstanding anything contained in sub-section (6), if any information recorded in the register is marked as confidential under sub-section (8), the information shall not be provided to any person.

(10) The person obtained the registration of a protected variety under this section may, at any time, withdraw his registration through a written application to the Authority.

16. Eligibility of an applicant for registration, etc.—(1) The following persons and institutions shall be deemed to be eligible to apply for protection of plant varieties, namely:—

- (a) a citizen or legal person or institution of Bangladesh;
- (b) a citizen or legal person or institution of any other country having an office in Bangladesh;
- (c) a citizen or a legal person of Bangladesh who has developed a new plant variety while working in a foreign country or institution or by any other means of cooperation, and has made an application for protection of the variety with the permission of such country or institution;
- (d) a citizen or institution of a country which is a party to an international convention or treaty to which Bangladesh is a party;
- (e) a representative or successor of the breeder and any farmer or farmers' association claiming to be a breeder; and
- (f) an institution or institute or university or authority run by public fund.

(2) If an employee or contract employee of an organization breeds a plant variety, subject to non-existence of different conditions in the terms of the employment or the contract, the head of the organization concerned or any breeder authorised by him or the appointing authority may make an application for protection thereof.

(3) If more than one breeders develop a new plant variety, they jointly or any breeder authorized by them may make an application for protection of the variety.

(4) If more than one plant breeders jointly breed or develop a new variety of plant and are willing to protect its right jointly, they shall have to make an application jointly signed by all of them for the protection of the variety.

17. Non-eligibility of an applicant for registration.—For the purposes of this Act, no person shall be eligible to make an application for registration of the protection of varieties, if he—

- (a) contravenes any provision of this Act or the Seed Act, 2018;
- (b) fails to furnish or, as the case may be, submit the following information in his application, namely:—
 - (i) the proof of the use of farmer's knowledge or the genetic resources in breeding the variety applied for;
 - (ii) the agreement in the form approved by the Authority mentioning the permission and the terms relating to the benefits available for breeding right from the farmer or farmers' association in the use of farmer's knowledge or genetic resources; and
 - (iii) in the case of the genetic resources collected from outside Bangladesh, proof to the effect that the materials have been collected according to the law of the country and the permission for making the application for the protection of the plant varieties developed therefrom;
- (c) is disqualified according to the Convention on Biodiversity or International Treaty on Plant Genetic Resources for Food and Agriculture; and
- (d) develops a variety using deoxyribonucleic acid restriction technology or terminator technology.

Explanation.—For the purposes of this section, 'deoxyribonucleic acid restriction technology or terminator technology' means genetic variation of the variety by which the germination ability of seeds is hampered in the next generation.

18. Priority of application.—(1) If a breeder referred to in the clauses (b), (c) and (d) of sub-section (1) of section 16, submits an application in any other country, he shall get 12 (twelve) months priority in calculating the time of submitting application under this Act to protect the variety concerned.

(2) To obtain the priority under sub-section (1), the breeder shall have to specify the country and date of submission of the first application in the next application.

(3) In computing the validity of time under this section, the counting shall be started from the date of submission of the first application.

19. Conditions for the protection of plant varieties, etc.—(1) The variety of a plant may be protected if the following features exist, namely:—

- (a) novelty;
- (b) distinctness;
- (c) uniformity; and
- (d) stability.

(2) The novelty referred to in clause (a) of sub-section (1) means the variety invented 1 (one) year before the application is made for registration for the protection of the variety within Bangladesh, or 4 (four) years before the application made outside Bangladesh, or 6 (six) years before the application is made in the case of the trees and climbers the seeds or products of which had not been sold or transferred.

(3) The novelty of the protected variety shall not be affected by sale or transfer to any other person, if—

- (a) the breeder himself or any person on behalf of him or his successor has the right to produce the seeds of the variety concerned:

Provided that in such case, the materials produced therefrom shall be returned to the breeder or his successor; and

- (b) the variety is listed as public for establishing biological security or testing or entering into trade and is the part of the complying with the statute or administrative obligations.

(4) For the purposes of this section—

- (a) the word ‘distinctness’ referred to in clause (b) of section (1) means the variety that can be clearly identified from other existing varieties at the time of making the application for registration for protection;
- (b) the word ‘uniformity’ referred to in clause (c) of sub-section (1) means the variety having characteristics of varieties mostly similar to the characteristics of the plant varieties:

Provided that if any variation is observed in the case of a particular reproduction system, the variation shall have to be within such limit as may be approved by the National Seed Board; and

- (c) the word ‘stability’ referred to in the clause (d) of sub-section (1) means the variety, main characteristics of which remain unchanged after repeated cycle of reproduction or at the end of the period of specific regeneration cycle.

(5) If a breeder makes an application in another country for registration of a variety which has been developed by him, such variety shall be deemed to be a known-variety from the date of the application.

20. Nomenclature of the protected variety, etc.—(1) Each protected variety shall be identified by a group name.

(2) If the protected variety is registered in any name, it shall be considered as permanent name and the name shall remain effective even if the validity of the registration is expired.

(3) In naming of any variety under this section, the characteristics, values or identity of the variety or the identity of the breeder shall be specified.

(4) The name of any variety of the same plant species or closely related species shall be different from the existing name.

(5) If the name proposed by a breeder does not comply with the terms of sub-section (3), the Authority shall direct the breeder to propose a different name within a specified time and if the proposal is approved, the Authority may register the variety in such name.

(6) If the name proposed by a breeder may not be used for the pre-existing right, the Authority may direct the breeder to submit a proposal for a fresh name of the variety concerned.

(7) If the application for registration of the name of protected variety is initially found to be accurate and acceptable to the Authority, it shall make pre-publication of a notice in the official *Gazette*, electronic gazette (if any), website and in one Bangla and one English widely circulated national daily newspapers to notify whether there is any objection to the name.

(8) If any person has any objection to, or suggestion on, the registration of the name pre-published in accordance with the provisions of sub-section (7), it shall be sent in writing along with necessary documents to the Authority within not more than 60 (sixty) days of pre-publication.

(9) The Authority shall, considering the objections or suggestions received in accordance with sub-section (8), approve it as soon as possible with or without modification, and publish it finally in the official *Gazette*.

(10) If, after the acceptance of the proposal of name under this section, it is found that the applicant has concealed any information and has used and proposed the name of a farmer's variety illegally, the Authority may immediately cancel the name.

CHAPTER IV

Breeders' rights, duration, farmers' rights, etc.

21. **Breeders' rights etc.**—(1) For using a variety protected under this Act, the approval of the breeder concerned shall be taken in the following cases, namely:—

- (a) production and reproduction;
- (b) bringing or using in appropriate conditions for the reproduction;
- (c) display and offer for sale;
- (d) sale or otherwise marketing;
- (e) import or export; and
- (f) storing for any of the purposes specified in clauses (a) to (e).

(2) Subject to not being inconsistent with this Act or the rules or regulations made thereunder and subject to the conditions mentioned in the registration certificate, any breeder may delegate the power of approval mentioned in sub-section (1) to any other person or institution.

(3) If a person develops one or more new varieties using the protected varieties of a breeder one or more times keeping the basic characteristics of such varieties unchanged, the right of the breeder of original protected variety shall remain in force.

(4) Notwithstanding anything contained in sub-section (1), a person may—

- (a) preserve the seeds of a protected variety produced by him for agricultural production in the next season; or
- (b) use the stored seeds referred to in clause (a) for his own needs or by exchanging any other seeds with any other farmer for his own use; or
- (c) use a protected variety in research and test; or
- (d) use a protected variety as the primary source for the purpose of developing of a new variety.

(5) The Authority may, in the public interest, limit the rights of breeders to use the protected varieties in the following cases, namely:—

- (a) prevention of disease;
- (b) conservation of the environment and biodiversity;
- (c) prevention of the misuse of monopoly, that is, when price of seeds is increased in the market willfully making the supply of the seeds of protected varieties inadequate compared to the demand or if the new plant variety is not marketed within 3 (three) years of registration;
- (d) any critical situation relating discipline of the State; and
- (e) any other need of public welfare as considered by the Authority or the Government.

(6) The Authority may, with the prior approval of the Government, by notification in official *Gazette*, limit or, as the case may be, prohibit the rights of breeders to production, sale, distribution, import or use of GMO varieties.

(7) The Authority may, in order to deal with the situation referred to in clauses (c) and (d) of sub-section (5), limit the rights of the concerned breeder after giving him the reasonable opportunity of being heard, and subject to the conditions referred to in sub-section (8), permit any one or more persons or institutions to produce, sell, distribute, import or use the protected varieties.

(8) The permission given under sub-section (7), it is to be noted that the validity of the protected variety shall remain in force for a period not less than three years after the registration of the protected variety and appropriate remuneration be allocated for the breeder concerned.

(9) The Authority may cancel the permission given under sub-section (7) if the situation for which such permission was given does not exist.

(10) If the permission is revoked or cancelled under sub-section (7), the concerned person or institution may not produce, sell, distribute, import or use the protected varieties.

22. Duration of breeders' right, suspension of the rights, cancellation, etc.— (1) The duration of breeders' right for the use of protected varieties shall be as follows, namely:—

- (a) 16 (sixteen) years in the case of the fruit trees, other tree species and perennial climber species; and
- (b) 14 (fourteen) years in the case of all other plant species.

(2) In the case of the computing of the duration referred to in sub-section (1), the counting shall begin from the date of making the application for registration of the protected varieties or the date of obtaining priority specified under section 18, whichever is earlier.

(3) The Authority may suspend or cancel the rights of the breeders given under this Act in the following cases or reasons, namely:—

- (a) novelty or distinctness of the variety was not available at the time of issuing the registration certificate;
- (b) the plant variety has no acceptable limit of stability or uniformity;
- (c) the necessary information and materials are not supplied by the breeder to verify the maintenance of the plant varieties within such time as may be determined by the Authority;

- (d) the breeder fails to pay the registration fee within the specified time required to enforce his rights;
- (e) the breeder does not propose a proper name when name of a variety is cancelled after registration;
- (f) the breeder does not pay compensation relating to any species within the specified time; and
- (g) the registration certificate of a protected variety is delivered to any person other than the person to whom it was to be delivered, if the certificate is not handed over to the appropriate person.

(4) The Authority shall issue a notice to the breeder before suspending or cancelling the rights thereof under sub-section (3) mentioning the reason of such suspension or cancellation and may direct him to submit the report on the functions performed thereby within such time as may be mentioned in the notice.

(5) The Authority shall analyse the report submitted under sub-section (4) and take appropriate decision to suspend or cancel the rights of the breeder, and such decision shall be final.

(6) If the rights of the breeder are cancelled under sub-section (5), he cannot claim any right under this Act.

(7) The protected varieties shall also be produced, regenerated, preserved, utilized, reutilized, exchanged or sold without changing the name thereof after the expiry of the period referred to in sub-section (1).

(8) If any person has a legitimate interest with any breeder according to the provisions of this Act, he may make an application to the Authority to declare the single or absolute rights of the breeder concerned as ineffective or void.

23. Farmers' rights.—(1) The Authority shall protect and enforce the following rights of farmers, namely:—

- (a) the right to make the application for registration and protection of new varieties invented by the farmer and right to protection thereof;
- (b) the right granted under this Act over the protected varieties;

- (c) the right to obtain a recognition certificate or financial assistance or award, in such manner as may be prescribed, from any farmer or farmers' association fund relating to protection and development of genetic resources of any landrace;
- (d) the right to recognition of the farmer and farmers' association in preserving the traditional knowledge of plant genetic resources used in food, agriculture and medicine;
- (e) the right to get benefit from a variety developed by a breeder using the genetic resources of farmers' protected varieties;
- (f) the right to participation in taking decision on the protection of plant genetic resources and sustainable use thereof; and
- (g) the Authority may cancel the registration if the name of any of the plant varieties traditionally used by the farmers' community is registered as a protected variety by a public or private breeder.

(2) Other than the rights referred to in sub-section (1), a farmer may also produce, reproduce, store, use, reuse, exchange or sell the seeds of the protected varieties except for the purpose of commercial marketing.

Explanation.—For the purposes of this section, 'traditional knowledge' means all types of knowledge, intellects and intellectual practices and cultures relating to biological diversity and biological resources which are practiced in the form of written, oral, folk and story and which may be logical, real or metaphorical, symbolic or graphical and which is not the result of the invention or effort of a single person.

24. Rights of individuals, societies or organizations, etc.— (1) Any person, association, society or institution having contributions to the development of a protected variety may make an application to the Authority for registration of the protected variety claiming participation in the rights and benefits of the breeder.

(2) Notwithstanding anything contained in sub-section (1), where any person, association, society or institution has contribution to the development of a protected variety, and if such variety is registered under this Act solely in the name of a breeder, such person, association, society or institution may claim compensation for it.

25. **Recognition certificate, award, etc.**—(1) The Authority may award ‘recognition certificate’ in favour of the person, community or organization for making special contribution to the protection and development plant varieties.

(2) If a plant variety developed by a breeder is competent to be certified as a new variety but no application for protection thereof has been made, such variety shall be deemed to be competent for recognition and a national asset.

(3) The Authority may, considering the importance of the contribution to the protection and development of plant variety, provide research grants or financial support to any person, whether institution or non-institution, irrespective of educational qualifications.

CHAPTER V

Offences, penalties, investigation, trial, etc.

26. **Offences and penalties.**—(1) If any person falsely names a protected variety, or willfully uses false information in respect of a country or place, breeder or his address during commercial use of a registered variety, it shall be deemed to be an offence under this Act, and he shall be punished with imprisonment for a term which may extend to 2 (two) years, or with fine which may extend to 5 (five) lakh taka, or with both.

(2) If any person uses a false name of a registered protected variety, or sells or exhibits for sale, keeps in his custody for trade or production using false or perverted name of the country or place of production of the variety or name and address of the breeder, it shall be deemed to be an offence under this Act, and he shall be punished with imprisonment for a term which may extend to 2 (two) years, or with fine which may extend to 5 (five) lakh taka, or with both.

27. **Offence committed by a company.**—Where an offence is committed by a company, the owner, director, manager, secretary, or any other officer, who was in charge of the administration of the business of the company at the time of committing the offence, shall be deemed to have committed the offence, unless he proves that the offence was committed without his knowledge or he exercised all due diligence to prevent the offence.

28. **Investigation and trial.**—The investigation and trial of any offence committed under this Act shall be made in accordance with the Code of Criminal Procedure, 1898 (Act No. V of 1898).

29. **Cognizance of offence.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no Court shall take cognizance of any offence under this Act unless a written complaint is made by the Chairman or any person authorised by him in such manner as may be prescribed .

30. **Non-cognizability and bailability of the offence.**—Offences committed under this Act shall be non-cognizable and bailable.

31. **Compensation.**—Any farmer, person, association, society, organization or institution affected and aggrieved, or any citizen aggrieved, by willful negligence of a breeder or seed producer for the development or breeding of a new plant variety may realize reasonable compensation in such amount and manner as may be prescribed and the compensation specified under this Act .

CHAPTER VI

Fund, budgets, accounts, etc.

32. **The fund of the Authority.**—(1) For the purposes of this Act, the Authority shall have a fund to be called the ‘Plant Varieties Protection Authority Fund’.

(2) The money received from the following sources shall be credited to the fund, namely:—

- (a) grants and donation made by the Government;
- (b) grants made by local authorities and other agencies;
- (c) donations from any foreign government or international agency with the prior approval of the Government;
- (d) fees collected and moneys received by the Authority;

- (e) loans received, with the prior approval of the Government, from any bank or financial institution or foreign agency approved by the Government;
- (f) moneys accrued from the benefits and profits earned by fund management; and
- (g) moneys and donations received from other lawful sources, with the prior approval of the Government.

(3) All moneys of the fund shall be kept in any Scheduled Bank and the fund shall be operated in such manner as may be prescribed by rules.

(4) The salary and allowances of the Chairman, Registrar and other employees of the Authority and the necessary expenditure which may be required to carry out the functions of the Authority may be met out of the fund:

Provided that the expenditure of the fund shall be made in accordance with the existing rules, regulations and policies in respect thereof.

(5) The Authority may invest the money of the fund in profitable sector of any scheduled bank or public financial institution.

(6) In every financial year, the Authority shall, after defraying all of its expenditure, deposit the surplus money of the fund in the government treasury.

Explanation.—For the purposes of this section, “scheduled bank” means a scheduled bank as defined in Article 2(j) of the Bangladesh Bank Order, 1972 (President’s Order. No. 127 of 1972).

33. Power to borrow.—The Authority may, with the prior approval of Government, take loan from any bank, financial institution or government institution or foreign agency for carrying out the duties and functions thereof.

34. Budget.—The Authority shall, by such date in each year as may be specified by the Government, submit an annual budget statement of the next financial year to the Government for approval showing the sums which are likely to be required from the Government during that financial year.

35. **Accounts and audit.**—(1) The Authority shall maintain its account properly and make annual statement thereof.

(2) The Comptroller and Auditor-General of Bangladesh shall audit the accounts of the Authority every year and forward a copy of the audit-report each to the Government and the Authority.

(3) Where any objection is raised on the report referred to in sub-section (2), the Authority shall immediately take necessary measures to resolve it.

(4) Apart from the audit under sub-section (2), the accounts of the Authority may be audited by any Chartered Accountant as defined under Article 2(1)(b) of the Bangladesh Chartered Accountants Order, 1973 (President's Order. No. 2 of 1973), and in this behalf, the Authority may appoint one or more Chartered Accountants and the Chartered Accountant so appointed shall be entitled to remuneration in such rate, as the Government may prescribe by regulations.

(5) For the purpose of an audit of the accounts of the Authority, the Comptroller and Auditor-General or any person authorised by him in this behalf or the Chartered Accountant appointed under sub-section (4) shall have access to all records, documents, annual balance sheet, cash or money deposited in Bank, securities, fund and other property, etc. of the Authority and may examine the Chairman, Registrar or any employee of the Authority.

(6) The provisions of the Financial Reporting Act, 2015 (No. XVI of 2015) shall be followed, where applicable, in implementing the provisions of this section.

36. **Annual report.**—(1) The Authority shall, within 90 (ninety) days after the end of every financial year, submit to the Government an annual report on the conducts of its affairs in that year.

(2) The Government may, if it deems necessary, require the Authority to furnish any report, statement, estimate, statistics or other information on any matter of its affairs to it, and the Authority shall be bound to furnish it to the Government.

CHAPTER VII**Miscellaneous**

37. **Power to make rules.**—The Government may, by notification in the official *Gazette*, make rules for carrying out the purposes of this Act.

38. **Power to make regulations.**—The Authority may, with the prior approval of the Government, by notification in the official *Gazette*, make regulations subject to not being inconsistent with this Act or rules made thereunder.

39. **Publication of Authentic English Text.**—(1) After the commencement of this Act, the Government may, by notification in the official *Gazette*, publish an Authentic English Text of the Bangla text of this Act.

(2) In the event of conflict between the Bangla and the English Texts, the Bangla Text shall prevail.

By order of the President

MD. MESBAHUL ISLAM

Senior Secretary.