

**PROTECTION OF NEW PLANT
VARIETIES ACT**

CHAPTER 82:75

Act
7 of 1997
Amended by
18 of 2000

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-2	..
3-28	..
29-32	..
33-42	..
43-58	..
59-66	..
67-68	..
69-80	..
81	..

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

2

Chap. 82:75 *Protection of New Plant Varieties*

Index of Subsidiary Legislation

	<i>Page</i>
Protection of New Plant Varieties Regulations (LN 298/2000)	32
Protection of New Plant Varieties Order (LN 124/1998)	81

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

CHAPTER 82:75

**PROTECTION OF NEW PLANT
VARIETIES ACT**

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title.
2. Interpretation and administration.

PART II

PLANT BREEDER'S RIGHTS

3. The breeder's rights.
4. Novelty.
5. Distinctness.
6. Homogeneity.
7. Stability.
8. List of genera and species to which this Act applies.

PART III

ENTITLEMENT TO PROTECTION

9. Right to apply protection.
10. Presumption of title.
11. Application by person other than owner.
12. Persons entitled to file applications.

PART IV

**ASSIGNMENT AND TRANSFER OF THE APPLICATION
OR OF THE PLANT BREEDER'S RIGHT**

13. Assignment and transfer.
14. Joint applicants and joint holders of rights.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

PART V

**SCOPE AND DURATION OF THE
BREEDER'S RIGHT**

15. Scope of the Breeder's Right.
16. Maintenance of propagating material.
17. Period of protection.
18. Renewal fees.

PART VI

TERMINATION, ANNULMENT AND FORFEITURE

19. Termination of protection; annulment and forfeiture of rights.

PART VII

PROCEDURES BEFORE THE OFFICE

20. Application.
21. Priority.
22. Documents and material to be furnished for priority.
23. Application to be in English.

PART VIII

VARIETY DENOMINATION

24. Application and procedure for variety denomination.
25. Publication.
26. Use of the variety denomination.
27. Prior rights of third parties.
28. Cancellation of a registered variety denomination.
29. Filing date.

PART IX

EXAMINATION OF THE APPLICATION

30. Formal examination of application; consequences of defects.
31. Examination of novelty, distinctness, homogeneity and stability.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

SECTION

PART X

OPPOSITION

32. Opposition.

PART XI

**PROCEDURE IN CASES OF REQUESTS FOR
ANNULMENT AND FORFEITURE**

33. Procedure in cases of requests for annulment.
34. Procedure for forfeiture of a plant breeder's right.

PART XII

**RULES ON THE PROCEEDINGS BEFORE
THE OFFICE**

35. Proceedings before the Office.

PART XIII

**APPEALS AND ENFORCEMENT
PROCEEDINGS**

36. Appeal.
37. Civil proceedings.
38. Criminal liability for non-compliance or misuse of variety
denomination.

PART XIV

**LICENCES AND LEGAL PROCEEDINGS
BY LICENSEE**

39. Licence contracts.
40. Rights of licensor to grant further licences or to exploit the variety.
41. Non-assignability of licences.
42. Certain clauses in contract void.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

6

Chap. 82:75 *Protection of New Plant Varieties*

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

- 43. Licences of Right.
- 44. Compulsory Licences.
- 45. Legal proceedings by licensees.

PART XV

REGULATIONS AND REGISTER

- 46. Regulations.
- 47. Register.
- 48. Examination of Register.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

CHAPTER 82:75

PROTECTION OF NEW PLANT VARIETIES ACT

An Act to provide for the protection of new varieties of plants and for matters incidental thereto. 7 of 1997.

[1ST DECEMBER 1997]

Commencement.
[257/1997].

PART I

PRELIMINARY

1. This Act may be cited as the Protection of New Plant Varieties Act. Short title.

- 2.** (1) For the purposes of this Act— Interpretation and administration.
- “applicant” means the person who has filed an application for the grant of a breeder’s right;
- “Authority of a Contracting Party” means the Authority entrusted with the implementation of the law on the protection of new varieties of plants for that Party;
- “breeder” means the person who has bred, or discovered and developed, a variety;
- “Contracting Party” means a State other than Trinidad and Tobago or intergovernmental organisation party to the Convention;
- “Controller” means the Controller of the Intellectual Property Office appointed under section 3(2) of the Patents Act; Ch. 82:76.
- “Convention” means the International Convention for the Protection of New Varieties of Plants 1978 and 1991;
- “Court” means the High Court established by the Supreme Court of Judicature Act; Ch. 4:01.
- “holder” means the holder of a breeder’s right;
- “Minister” means the Minister to whom responsibility for legal affairs is assigned;
- “Office” means the Intellectual Property Office established under section 3(1) of the Patents Act; Ch. 82:76.

“periodical” includes the *Gazette*, daily newspapers circulating in Trinidad and Tobago or other publication issued by the Intellectual Property Office;

“protected variety” means any variety that is the subject of a breeder’s right;

“Register” means the book, file, document or other instrument in which certain facts are required to be recorded in accordance with section 47;

“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 Breeder’s Right are fully met, can be—

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

(2) For the purposes of this Act, the Office shall be responsible for all matters concerning the administration of this Act.

PART II

PLANT BREEDER’S RIGHTS

3. Subject to this section and any other formal requirements of this Act, a right to be known as a plant breeder’s rights shall be granted in respect of plant varieties of those genera or species listed in the Schedule, where the variety is—

- (a) new;
- (b) distinct;
- (c) homogenous;
- (d) stable; and
- (e) given a variety denomination which is acceptable for registration in accordance with section 24.

The breeder’s rights.
[18 of 2000].

4. (1) Subject to subsections (2) and (3), a variety shall be considered new, where the variety itself has not been offered for sale or marketed with the approval of the breeder or his successor in title—

Novelty.

- (a) in Trinidad and Tobago, for longer than one year before the date on which protection is applied for under this Act; and
- (b) abroad for longer than four years, before the effective national filing date.

(2) In the case of vines, forest trees, fruit trees and ornamental trees, including their root stocks, the fact that the variety itself may have been offered for sale or marketed abroad for up to six years before the effective national filing date, shall not be considered detrimental to its novelty.

(3) It shall not be considered detrimental to the novelty of a variety if that variety has been offered for sale or marketed in the country with the approval of its breeder or his successor in title, for up to four years prior to the inclusion of the genus or species to which the variety belongs in the List of Genera and Species published pursuant to section 8 and for a maximum of six months after such inclusion where the application is filed within that six-month period.

5. (1) The variety is distinct if it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of the filing of the application or where relevant, at the priority date identified under section 21.

Distinctness.

(2) Common knowledge may be established by reference to various factors such as the exploitation of the variety already in progress, grant of a breeder's right in the variety, entry of the variety in a catalogue of varieties admitted to trade or entry in the register of varieties kept by a recognised professional association, or inclusion of the variety in a reference collection.

(3) The filing, in any state, of an application for a breeder's right, or for entry in a catalogue of varieties admitted to trade, shall be deemed to render the variety being the subject of the

application a matter of common knowledge from the date of the application, provided that the application leads to the grant of the plant breeder's right or the entry in the catalogue, as the case may be.

Homogeneity.

6. The variety shall be considered homogeneous if its plants show the same expression of the characteristics, subject to the variation which may be expected in view of the particular features of its sexual reproduction, or vegetative propagation.

Stability.

7. The 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 such cycle.

List of genera and species to which this Act applies.

8. (1) The Minister may by Order, subject to subsection (2), publish a list of those genera and species to which this Act applies and may also amend such list by adding new genera or species to it, modifying the names of the genera or species already published or by deleting such names, with effect from any prospective date specified in the Order.

(2) In compiling the list of genera or species, the Minister may exclude all varieties of that genus or species which are not characterised by a particular manner of reproduction or multiplication or by a certain end-use.

(3) Where a genus or species is deleted from the list of genera and species to which this Act applies with effect from a given date, the deletion shall not affect the rights of applicants who have filed applications for the protection of varieties of that genus or species before that date.

PART III

ENTITLEMENT TO PROTECTION

Right to apply protection.

9. (1) Subject to this Part, the breeder of the variety or his successor in title is entitled to apply for protection under this Act.

(2) The breeder or his successor in title may be a natural or a legal person.

(3) Where two or more persons have bred, or discovered and developed, a variety jointly, entitlement to protection shall

vest in them jointly, and subject to any agreement to the contrary between the joint breeders, their shares in the property of the breeder's rights shall be equal.

(4) Where a variety has been bred, or discovered and developed, by several persons independently of each other, the entitlement to apply for the grant of the breeder's right belongs to the person who has first applied for protection or filed an application with an earlier priority date at the Office.

(5) Where a variety has been bred or discovered and developed, in execution of a commission or an employment contract, the entitlement to apply for protection shall belong in the absence of contractual provisions to the contrary, to the person who commissioned the work or to the employer.

10. The applicant shall be considered entitled to protection, in the absence of proof to the contrary, but where the application is made by a successor in title, it shall be accompanied by sufficient proof of succession.

Presumption of title.

11. (1) Where an application is filed by a person who is not entitled to protection, the person entitled, may bring an action before the Court for the assignment of the application to him or if the application is already granted, for the assignment of the plant breeder's right.

Application by person other than owner.

(2) The action shall be statute barred after five years from publication of the grant of the plant breeder's right, save that an action brought against a defendant who has acted in bad faith shall not be subject to any limitation period.

12. (1) An application for the grant of a plant breeder's right may be filed by the owner of the variety who is a—

Persons entitled to file applications.

- (a) national or resident of Trinidad and Tobago;
- (b) national or resident of a Contracting Party;
- (c) national or resident of any State which, without being a Contracting Party grants reciprocity of treatment to Trinidad and Tobago.

(2) For the purposes of subsection (1)(b), "national" means where the Contracting Party is a State, the nationals of that

State and where the contracting Party is an intergovernmental organisation, the nationals of the States that are members of that organisation.

(3) Any person having neither residence nor registered office in Trinidad and Tobago may be party to an action instituted pursuant to this Act and assert rights deriving therefrom only if he has an agent resident or with an office in the country.

(4) The Agent shall be given the power to act on his principal's behalf before the office and in legal proceedings relating to the protection of new varieties of plant.

(5) For the purpose of instituting legal proceedings by or against any person represented in the manner defined in subsection (3), the place which the Office identifies as the address of the representative, or where there are several representatives, the address of the main representative, or representative first designated, is deemed to be the place where the right in the variety is located.

PART IV

ASSIGNMENT AND TRANSFER OF THE APPLICATION OR OF THE PLANT BREEDER'S RIGHT

Assignment and transfer.

13. (1) An application for the grant of a plant and a plant breeder's right may be assigned or may otherwise be transferred.

(2) The assignment or transfer shall be in writing and shall be signed by the parties.

(3) An assignment or transfer shall be registered in the Register on request and on payment of the prescribed fee.

(4) No assignment or transfer to a successor in title shall have effect against a third party until after such registration.

Joint applicants and joint holders of rights.

14. (1) Where there are two or more applicants for the grant of a plant breeder's right or where there are two or more holders of such a right in any protected variety, in the absence of any agreement to the contrary, each applicant or holder may separately transfer his shares, or exploit the variety as the case may be, or subject to this Act, exclude others from exploiting it.

(2) In the case of the grant of an exclusive licence however, the holders of the plant breeder's licence may only jointly grant an exclusive licence to a third party to exploit the variety.

PART V

SCOPE AND DURATION OF THE BREEDER'S RIGHT

15. (1) The effect of the plant breeder's right is that the prior authorisation of the holder of that right shall be required for—

Scope of the breeder's right.

- (a) the production for purposes of commercial marketing;
- (b) the offering for sale; or
- (c) the marketing,

of the reproductive or vegetative propagating material, as such, of the variety.

(2) In the case of an ornamental variety, prior authorisation of the holder of that right shall also be required where plants of the protected variety or parts thereof, normally marketed for purposes other than propagation, are used commercially as propagating material in the production of ornamental plants or cut flowers of that variety.

(3) Authorisation by the holder of the plant breeder's right shall not be required for the utilisation of the variety protected by that right, as an initial source of variation for the purpose of creating other varieties or for the marketing of such other varieties, but shall, however, be required when the repeated use of the variety protected by a plant breeder's right is necessary for the commercial production of another variety.

16. (1) The holder of a plant breeder's right shall be under an obligation to provide the Office with propagating material capable of producing plants which correspond to the characteristics defined for the variety when the right was granted, throughout the period for which the right is exercisable.

Maintenance of propagating material.

(2) The holder of a plant breeder's right shall also provide the Office with all such information and assistance as the Office may request for the purpose of ensuring that the holder of the plant

breeder's right is fulfilling his obligations under subsection (1), including facilities for the inspection by or on behalf of the Office of the measures taken for the maintenance of the variety.

Period of protection.

17. (1) Subject to subsection (2), the plant breeder's right shall expire at the end of the eighteenth calendar year following the grant thereof, in respect of vines, forest trees, fruit trees and ornamental trees including in each case, their rootstocks.

(2) Protection for all other genera or species shall expire at the end of the fifteenth year following the grant thereof.

(3) Where in the cases under section 4(3), the variety has already been offered for sale or marketed in Trinidad and Tobago for a period of more than one year before the date of the filing of the application, the duration of the protection shall be reduced by the number of full years minus one year that have elapsed since the beginning of the offering for sale or the marketing, with the approval of the breeder or his successor in title, before the filing of the application.

Renewal fees.

18. The holder shall pay an annual fee for the whole period of protection which fee shall fall due at the beginning of the calendar year to which it relates and shall be payable by 31st January of each year.

PART VI

TERMINATION, ANNULMENT AND FORFEITURE

Termination of protection; annulment and forfeiture of rights. [18 of 2000].

19. (1) The plant breeder's right shall terminate before the term expires where the holder of that right renounces it by written declaration addressed to the Office. The date of termination shall be that specified in the declaration or, if none is specified, the date on which the declaration is received by the Office.

(2) The Controller shall declare a plant breeder's right null and void at the request of any person, where it is established that—

- (a) the variety is not new or distinct within the meaning of, and on applicable dates referred to in sections 4 and 5; or
- (b) the holder of the right is not the owner of the variety.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

(3) The request for the annulment of the plant breeder's right shall be addressed to the Office save, however, that where the prescribed fee is not paid within three months after the request has been filed, that request shall be deemed never to have been filed.

(4) The Controller shall declare the plant breeder's right forfeit where the holder of the right—

- (a) is no longer in a position to provide the Office on request with the propagating material capable of producing plants which correspond to the characteristics defined for the variety when the right was granted;
- (b) does not fulfil his obligation under section 16; and
- (c) does not pay the renewal fee that is due, having been reminded to do so by the Office, and after three months have elapsed since the date of the reminder.

(5) An appeal shall lie to the Court against any decision of the Office under this section.

(6) A licence agreement made under this Act, becomes ineffective if the plant breeder's right under which it was granted is declared null and void or forfeit, save however, that no payment of any royalty which was due before the date of annulment or forfeiture can be demanded by the licensee in view of that annulment or forfeiture.

PART VII

PROCEDURES BEFORE THE OFFICE

20. (1) An applicant for the protection of a variety shall file an application with the Office in the prescribed form and the application fee shall be paid at the same time. Application.

(2) The application form shall be accompanied by the technical questionnaire in the prescribed form, for the relevant genus or species, which shall be completed by the applicant to the best of his knowledge.

(3) At the request of the Office, the applicant shall submit the amount of propagating material determined by it, on the date and at the place fixed by the Office.

(4) Every application received by the Office and completed in accordance with this section, shall be published in a periodical, including the date of filing, the name and address of the applicant and the original breeder, the variety denomination proposed under section 24 and the main characteristics of the variety as indicated in the application.

(5) The rejection or withdrawal of an application shall also be published in a periodical.

Priority.

21. (1) The applicant may avail himself of the priority of an earlier application (hereinafter referred to as the “right of priority”) that has been duly filed for the same variety, by himself or by his predecessor in title, with the Authority of a Contracting Party.

(2) Where the application filed with the Office is preceded by several applications, priority may be based only on the earliest application.

(3) The right of priority shall be expressly claimed in the application filed with the Office and may only be claimed within a period of twelve months from the date of filing of the earliest application, but the day of filing shall not be included in the said period.

Documents and material to be furnished for priority.

22. (1) In order to avail himself of the right of priority, the applicant shall submit to the Office, within three months from filing the application in Trinidad and Tobago, a copy of the documents that constitute the earlier application, certified to be a true copy by the Authority with which that application was filed.

(2) The Office may request that a translation of the earlier application, be produced within three months from the date of receipt of the request.

(3) The effect of the right of priority shall be that, with respect to the conditions of protection attached to the variety, the application shall be deemed to have been filed at the date of the filing of the earlier application.

(4) The applicant shall be entitled to declare that he will submit the material mentioned in section 20(3) or any additional documents required by the Office at a later date, but no later than four years after the end of the priority period, unless the earlier application mentioned in subsection (1), has been withdrawn in the country in which it was filed or has been rejected there.

(5) If any of the provisions of this section are not complied with, the application shall be dealt with as if no priority had been claimed.

23. Every application and all other supporting documents shall be submitted in the English language. Application to be in English.

PART VIII

VARIETY DENOMINATION

24. (1) The applicant for a plant breeder's right must, within three months after the filing of the application, propose in accordance with subsection (4), a variety denomination, which should be made on the form issued by the Office for that purpose. Application and procedure for variety denomination.

(2) A variety denomination may consist of one word, combination of words subject to a maximum of three, combination of words and figures, of words and letters or of letters and figures, but shall not consist wholly of figures save, however, that in a word/figure combination, the figures shall have a meaning in relation to the words.

(3) No person shall use as a variety denomination a designation which—

- (a) does not enable the variety to be identified;
- (b) is liable to mislead a person of average attentiveness or to cause confusion concerning the origin, derivation, characteristics, value or identity of the variety, or the identity of the breeder;
- (c) is identical or can be confused with a variety denomination which in the country or in another State party to the Convention designates an

existing variety of the same or of a related botanical species, save however, that the denomination is admissible, if the other variety is not registered and has not been grown for some considerable time;

- (d) is identical or can be confused with a designation in which a third party enjoys a prior right which would prohibit the use of the designation as a variety denomination;
- (e) is contrary to public policy or morality;
- (f) refers solely to attributes which are also common in other varieties of the species concerned;
- (g) consists of a botanical or common name of a genus or species, or includes such a name, where this is likely to mislead or cause confusion;
- (h) suggests that the variety is derived from or related to another variety when this is not the case;
- (i) includes words such as “variety”, “cultivar”, “form”, “hybrid”, “cross” or translation of such words;
- (j) is, for reasons other than those mentioned above, not suitable as a generic designation of the variety.

(4) Where a variety is already protected by a contracting party or where an application for the protection of the same variety is filed in such State, only the variety denomination which has been proposed or registered in that other State, may be proposed and registered and the Controller shall not register any other designation as a denomination for the variety, save however, that where the variety denomination used in the other State is inappropriate for linguistic reasons, or for any of the reasons mentioned in the preceding paragraph, the applicant may be requested to propose another variety denomination.

Publication.

25. The Controller shall publish in a periodical the variety denominations which have been proposed to it or registered or cancelled by it.

26. (1) Any person who offers for sale or markets propagating material of a variety protected in Trinidad and Tobago shall, even after the expiration of the protection, use the registered variety denomination in so far as prior rights do not prevent such use.

Use of the variety denomination.

(2) When a protected variety is offered for sale or marketed, a trade mark, trade name or other similar indication may be associated with the registered variety denomination provided that the denomination is easily recognisable.

(3) The holder of a plant breeder's right may not invoke any trade mark, trade name or other right in his possession against a variety denomination legitimately used in the offering for sale or marketing of the variety by another person, even after the expiration of the protection.

27. Prior rights of third parties in a designation are not affected by this Act.

Prior rights of third parties.

28. (1) The Controller shall cancel any registered variety denomination at the request of—

Cancellation of a registered variety denomination.

- (a) any person or on his own initiative, if the denomination should not have been registered or if subsequently, facts become known which would have justified the rejection of the denomination;
- (b) the holder of the plant breeder's right or of a third person, if a final Court decision is delivered according to which the variety denomination must be cancelled or if it is established that a third-party right exists in the denomination and the holder of the plant breeder's right agrees to the cancellation;
- (c) a person who is obliged to use the variety denomination under section 26(1), if he is prohibited by a final Court decision from using that denomination, provided that the holder of the plant breeder's right had participated or had been given the possibility to participate in the Court proceedings.

(2) In the case of the cancellation of the variety denomination, the Office shall request the holder of a plant

breeder's right to submit, within an appropriate period fixed by it, a proposal for a new variety denomination, which shall be registered if it is considered admissible for that Office but where the proposal is not acceptable, the request for submission shall be repeated.

(3) The Office shall establish, at the request of the holder or a third person, a provisional variety denomination where the holder or the third person demonstrates a legitimate interest.

(4) Where, after the period for submitting a proposal for a new variety denomination has expired, the holder of the plant breeder's right has not submitted the requested proposal, the Office may establish on its own initiative, a provisional variety or permanent variety denomination.

Filing date.

29. The filing date of the application is fixed by the Office as the day on which the application form and the technical questionnaire, duly completed, are received.

PART IX

EXAMINATION OF THE APPLICATION

Formal examination of application; consequences of defects.

30. (1) The Controller shall examine whether the application and its supporting documents contain all indications required under this Act and whether the required amount of propagating material has been submitted on the due date and at the proper place.

(2) Where any of the requirements under subsection (1) has not been complied with, the application for the grant of a plant breeder's right shall be rejected, unless the Controller grants to the applicant a further period to complete the application or to submit the propagating material, but no such further period may be granted which will expire later than three months after the application date or the date fixed for submission of the material as the case may be.

Examination of novelty, distinctness, homogeneity and stability.

31. (1) The Controller shall examine the variety to determine whether it fulfills the conditions of novelty and where that condition is not fulfilled, the Controller shall reject the application.

(2) The Controller shall invite the applicant, on a date fixed by him before the beginning of each year or testing period, to pay the prescribed fee for that year or testing period and failure to do so, shall cause the application to be rejected.

(3) The Controller shall, after having received the testing fee for the first year or for the first testing period, examine whether the variety fulfils the conditions of distinctness, homogeneity and stability.

(4) Where the Controller determines that it is expedient to do so, he may arrange to have the examination done by another national or foreign governmental authority and shall base his decision on the results of that examination.

(5) The Controller may treat examination results obtained from, and expert opinions given by foreign governmental institutions, as results obtained from and opinions given by the Controller himself.

(6) Subject to section 22(4), the Controller may where necessary for the examination, request the applicant to submit additional material or documents within the period fixed by the Controller and where the applicant fails to do so, without giving valid reasons for such failure, the application shall be rejected.

(7) Where the examination shows that the application satisfies the conditions of novelty, distinctness, homogeneity and stability and that the proposed denomination of the variety can be registered, the Controller shall grant a plant breeder's right.

(8) Where the examination shows that the variety is neither distinct, homogenous nor stable, the Controller shall reject the application.

(9) Where the examination shows that the proposed denomination of the variety cannot be registered, the Controller shall request the applicant to submit another denomination within a period fixed by him, failing which the application shall be rejected.

(10) Where the decision to grant a plant breeder's right or to reject an application is made, such decision shall be published in a periodical.

PART X

OPPOSITION

32. (1) Within three months after the date of publication in a periodical any person may file an opposition against the grant of the right on payment of the prescribed fee. Opposition.

(2) The opposition shall be based on the following grounds, namely that:

- (a) the applicant is not the owner of the variety;
- (b) the variety is not new or distinct at the pertinent dates in accordance with sections 4, 5 and 22(3);
- (c) it is neither homogenous nor stable;
- (d) the variety denomination that the office intends to register is inadmissible.

(3) Where the opposition is justified the decision that a plant breeder's right is to be granted shall, subject to subsection (5), be revoked and the application rejected.

(4) Where the opposition is not justified, it shall be rejected.

(5) Where the opposition based on the claim that the variety denomination is inadmissible is justified, the Controller shall revoke the decision that a plant breeder's right is to be granted and reopen the granting procedure by requesting the applicant to submit another denomination, failing which the application shall be rejected.

(6) Where no opposition is filed within a period mentioned in subsection (1) or if all oppositions filed within that period have been rejected, the Controller shall grant the plant breeder's right and register the variety denomination.

(7) The grant of a plant breeder's right shall be published in a periodical.

PART XI

PROCEDURE IN CASES OF REQUESTS FOR ANNULMENT AND FORFEITURE

Procedure in cases of requests for annulment.

33. (1) A request for annulment of a plant breeder's right may be filed by any person and shall not be deemed to have been filed unless the fee prescribed is paid.

(2) A request shall be filed in a written reasoned statement and it may be filed even after the plant breeder's right has expired.

(3) The request may not be filed during the period within which an appeal may still be made against the grant of the plant

breeder's right or while proceedings on such appeal are still pending before the Court.

(4) The Controller shall declare the request inadmissible if it is not accompanied by a reasoned statement, or if it was filed during the period within which an appeal could still be made against the grant of the plant breeder's right, or while proceedings on such an appeal are still pending before the Court.

(5) If the request is admissible, the Controller shall hear the holder of the plant breeder's right and may obtain any other evidence and shall conduct the hearing on his own initiative; he shall continue the hearing if the request for the annulment is withdrawn.

(6) If the Controller finds that the request is not justified, he shall reject it.

(7) Where the Controller finds that the request is justified, he shall declare the plant breeder's right null and void.

(8) An appeal shall lie to the Court against any decision taken under this section.

34. (1) Proceedings for forfeiture of a plant breeder's right shall be initiated by the Controller on his own initiative if the condition under section 19(4)(a) is fulfilled or may be initiated by the Controller or a third person if any of the conditions under section 19(4)(b) and (c) is fulfilled.

Procedure for forfeiture of a plant breeder's right.

(2) A request shall not be necessary for the commencement of such proceedings but where any such request is filed, the Controller shall treat it as a suggestion to initiate official proceedings.

(3) Before declaring a plant breeder's right forfeit, the Controller shall hear the holder of that right.

(4) Where after having heard the holder of the plant breeder's right, the Controller finds that there is no reason to declare the right forfeit, he shall declare the proceedings terminated and inform the holder of the right accordingly.

(5) Where the Controller declares a plant breeder's right forfeit, he shall also inform the holder, giving reasons therefor and shall state the date of forfeiture.

(6) An appeal shall lie to the Court against any decision by which a plant breeder's right is declared forfeit and such appeal may be filed only by the holder of the plant breeder's right.

PART XII

RULES ON THE PROCEEDINGS BEFORE THE OFFICE

Proceedings
before the
Office.

35. (1) The Office may in any proceedings under this Act, conduct an oral hearing.

(2) Hearings in proceedings concerning the assignment of an application, the transfer of a plant breeder's right or the annulment or forfeiture of such right shall be public, unless the legitimate interests of any person might be prejudiced thereby.

(3) In proceedings before the Office evidence may be obtained either by hearing any of the parties to the proceedings or experts or witnesses or by requesting the competent Court of the country of residence of the person concerned to take such evidence.

(4) Evidence may also be obtained by requesting the submission of documents and other information by, or in the possession of any party in the proceedings, or information from another government authority, an expert opinion, by inspecting the installations of any party to the proceedings with that party's consent, or by requesting the submission of a sworn statement in writing by any party to the proceedings or by any witness or expert.

(5) A decision of the Controller may be based only on grounds or evidence on which any party to the proceedings whose rights are affected by that decision has had an opportunity to submit his comments.

(6) Facts or evidence which are not submitted in due time by any of the parties to the proceedings may be disregarded by the Office.

(7) Unless stated to the contrary in this Act, the Office may commence the necessary investigations on its own motion and in these investigations, it shall not be restricted to the facts, evidence and arguments provided by any of the parties to the proceedings.

(8) Any person may submit observations or suggestions to the Office concerning any proceedings pending before the Office, but that person shall not become a party to those proceedings by the mere fact of such submission.

(9) Observations and suggestions thus submitted shall be communicated to the applicant or the holder of the plant breeder's right as the case may be.

(10) The Controller shall confirm the receipt of such observations or suggestions but need not inform the person having submitted them of any steps taken by it or of its opinion on the observations or suggestions submitted.

(11) The Controller shall apply the same rules of procedure established for the hearing of an application under the Patents Act, to the hearing of an application under this Act, with such adaptations as may be necessary. Ch. 82:76.

PART XIII

APPEALS AND ENFORCEMENT PROCEEDINGS

36. (1) An appeal shall lie to the Court against any decision of the Controller by which— Appeal.

- (a) an application for the grant of a plant breeder's right was rejected;
- (b) a plant breeder's right is granted;
- (c) a plant breeder's right is declared null and void or forfeit;
- (d) an opposition is rejected; or
- (e) a request to have the plant breeder's right declared null and void is rejected.

(2) An appeal shall also lie to the Court against any decision of the Controller by which—

- (a) a proposal for registration of a variety denomination is rejected;
- (b) the decision that a plant breeder's right is to be granted is revoked for inadmissibility of the variety denomination and the granting procedure is reopened;

- (c) a variety denomination is registered or cancelled;
- (d) the submission of a new variety denomination is requested; or
- (e) a new variety denomination is registered.

(3) An appeal shall also lie to the Court against any decision of the Controller concerning a compulsory licence, a licence of right or any application for the grant of a compulsory licence.

(4) The appeal may be filed by any person aggrieved by the decision of the Controller.

(5) The appeal shall be filed within three months after notice of the decision against which the appeal is made has been served on that person or, where no such service of notice has taken place, within three months after the publication of the decision in the periodical.

Civil
proceedings.

37. (1) Subject to this Act, infringements of the right of the holder of a plant breeder's right shall be actionable in the Court at the suit of the holder of that right and in any action for such an infringement all such relief by way of damages, injunction, accounts or otherwise shall be available in any corresponding proceedings in respect of infringements of other proprietary rights.

(2) The Court shall have the authority—

- (a) to grant injunctions to prohibit the committing, or continuation of committing, of an infringement of the holder of the plant breeder's right, pursuant to section 15;
- (b) to order the forfeiture, seizure and destruction of propagating material which has been produced in contravention of a plant breeder's right;
- (c) to fix the amount of damages taking into account the pecuniary and non-pecuniary loss suffered by the holder of the plant breeder's right.

(3) Where the person alleged to have infringed a right did not know or could not reasonably be expected to know that he was engaged in activity that infringed a right the Court may limit damages to the profits attributable to the infringement.

(4) The Court shall not, in respect of the same infringement, both award the holder of the plant breeder's right damages and order that he be given an account of profits.

38. (1) Any person who wilfully offers for sale or markets propagating material of a variety protected in Trinidad and Tobago without using the registered variety denomination, commits an offence and on summary conviction shall be liable to a fine of ten thousand dollars.

Criminal liability for non-compliance or misuse of variety denomination.

(2) Any person who wilfully makes use of the registered variety denomination of a variety protected in Trinidad and Tobago, or a denomination likely to cause confusion therewith, or another variety of the same botanical or a related species commits an offence and on summary conviction shall be liable to a fine of ten thousand dollars.

PART XIV

LICENCES AND LEGAL PROCEEDINGS BY LICENSEE

39. (1) The applicant for or the holder of a plant breeder's right may grant to any person an exclusive or a non-exclusive licence relating to all or any of the rights provided for under this Act.

Licence contracts.

(2) The licence contract shall be in writing and shall require the signatures of the parties thereto.

(3) A licence contract shall be registered at the Office on request and on payment of the prescribed fee, but the licence shall have no effect against a third party until after its registration.

(4) The grant of an exclusive licence shall be published in a periodical.

40. In the absence of any provision to the contrary in the licence contract, the grant of a licence shall not prevent the licensor from granting further licences to third parties or from exploiting the variety himself.

Rights of licensor to grant further licences or to exploit the variety.

41. In the absence of provisions to the contrary in the licence contract, rights granted therein shall not be assignable to a third party by the licensee, who shall not be entitled to grant a sub-licence.

Non-assignability of licences.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

28

Chap. 82:75 *Protection of New Plant Varieties*

Certain clauses
in contract void.

42. A clause in a licence contract or relating to such a contract shall be null and void, in so far as it imposes upon the licensee, restrictions that do not derive from the rights conferred by the plant breeder's right or are unnecessary for the safeguarding of the right.

Licences of
Right.

43. (1) Any holder of a plant breeder's right or any applicant for the grant of a plant breeder's right may declare that any person prepared to pay a royalty is entitled to use his variety, as from the date on which he has informed the holder or applicant accordingly.

(2) The declaration shall be addressed to the Office and a remark to that effect shall be entered in the Register.

(3) The royalty payable by the licensee of right shall be stated in the declaration to which subsection (1) refers, and shall also be entered in the Register.

(4) After the entry in the Register, the holder of the plant breeder's right shall pay only half of the prescribed renewal fees.

(5) Where all beneficiaries agree, the Office may cancel the entry under subsection (2), at the request of the holder of the plant breeder's right.

(6) An appeal shall lie to the Court against any refusal to cancel the entry under subsection (2).

Compulsory
Licences.

44. (1) At any time after the expiration of three years from the date of grant of a plant breeder's right under this Act, any person interested may apply to the Court for the grant of a compulsory licence, in respect of any plant breeder's right on the ground that it is necessary to safeguard the public interest in Trinidad and Tobago.

(2) Subject to subsections (4), (5) and (6), where the Court is satisfied that the ground referred to in subsection (1) is established, the Court may make an Order for the grant of the licence in accordance with the application on such terms as it thinks fit.

(3) A licence granted under this section, shall confer on the owner the non-exclusive right to perform all or any of the activities referred to in section 15.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

(4) Any person to whom a licence is granted under this section shall pay such remuneration to the licensor as may be agreed, or as may be determined by a method agreed upon between that person and the licensor, or in the default of agreement, as is determined by the Court on the application of either party.

(5) The Court may require the holder of the plant breeder's right to hold available for the owner of the compulsory licence, the amount of propagating material necessary for making reasonable use of the compulsory licence, against payment of adequate remuneration to the holder of the right and under conditions which are economically acceptable to him.

(6) A licence shall not be granted under this section unless—

- (a) the applicant for the licence is financially able and otherwise in a position to exploit the plant breeder's right in a competent and businesslike manner; and must be prepared to do so;
- (b) the holder of the plant breeder's right has refused to permit the applicant for the licence to produce or market propagating material of the protected variety in a manner sufficient for the needs of the general public as referred to in subsection (1) above or is not prepared to give such permission under reasonable terms;
- (c) no conditions exist under which the holder of the plant breeder's right cannot be expected to permit the use of his variety in the manner requested;
- (d) the applicant for the compulsory licence has paid the prescribed fee for the grant of such licence.

(7) The duration of the licence shall be fixed by the Court and shall not, except under extraordinary circumstances, be granted for less than two or for more than four years but the period may be extended if the Court is satisfied, on the basis of a new application, that the conditions for granting a compulsory licence continue to exist after the expiration of the first period.

(8) Before granting a compulsory licence, the Court may hear the national non-governmental organisations in the field of plant breeding and the seed trade.

(9) Where the Court is satisfied that the grounds on which any licence granted under this section have ceased to exist or that its owner has failed to comply with the conditions under which it was granted, it may, on the application of any interested party, terminate such licence.

Legal proceedings by licensees.

45. (1) Any licensee under a contractual or compulsory licence or a licensee of right may, by registered letter, require the licensor to institute legal action necessary to obtain civil remedies or criminal penalties, in respect of any infringement of the plant breeder's right indicated by the licensee.

(2) Where the licensor refuses or neglects to institute the said legal action within three months after the request has been made, the licensee may institute such action in his own name, without prejudice to the right of the licensor to intervene in such actions.

PART XV

REGULATIONS AND REGISTER

Regulations.

46. The Minister may make Regulations for any matter required to be prescribed by this Act, in addition to the following matters:

- (a) the procedure of the Office in respect of the receiving and handling of applications, the conduct of the examination of varieties and of variety denominations, the handling of opposition, the grant of plant breeder's rights, and the rejection of applications;
- (b) the annulment or forfeiture of plant breeder's rights, the assignment of an application or the transfer of a plant breeder's right to the owner of the variety and the cancellation of variety denominations;
- (c) the maintenance and conservation of samples, the cooperation with germ-plasm banks or other institutions for the conservation of genetic material;
- (d) the establishing and maintenance of a plant variety register and the receiving and filing of any documents concerning plant breeder's rights;

- (e) the amounts and the collection of all fees provided for under this Act;
- (f) the making of additional rules to prevent the use of the same or confusing denominations for more than one variety and to regulate the relationship between variety denominations and trade marks;
- (g) the administration of the Register provided for under section 47 including the determination of the facts to be registered;
- (h) any other matters relating to the administration of this Act.

47. The Office shall have a register, to be known as the Register. Register.
Register of Plant Breeders' Rights in which the following shall be entered:

- (a) any grant of a plant breeder's right;
- (b) any change in the holder of that right;
- (c) any annulment or forfeiture of the right;
- (d) any submission, registration, change or cancellation of the variety denomination;
- (e) any licence of right or compulsory licence granted, with an indication of the conditions of such licences; and
- (f) the conclusion of any licence contract at the request of one of the parties to such contract.

48. A person who has paid the prescribed fee, is entitled Examination of Register.
during normal business hours, to examine the Register kept in accordance with section 47, and to make copies of or extracts from the information contained therein.

SUBSIDIARY LEGISLATION

**PROTECTION OF NEW PLANT VARIETIES
REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Interpretation.
3. Fees.
4. Forms.
5. Agency.
6. Application for grant.
7. Variety denomination.
8. Withdrawal of application for grant.
9. Marking of application for grant.
10. Notification of action for assignment or transfer.
11. Request for registration of assignment or transfer.
12. Annual fees.
13. Renunciations.
14. Request for annulment.
15. Declaration of forfeiture.
16. Cancellation of registered variety denomination.
17. Notification of non-compliance.
18. Invitations.
19. Rejections.
20. Oppositions.
21. Procedure upon receipt of request for annulment, etc.
22. Request for registration of licence contract.
23. Cancellation of registered licence of right.
24. Request for registration of compulsory licence.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

REGULATION

25. Register of Plant Breeder's Rights.
26. Examination of Register.
27. Requests for copies or extracts from Register.
28. Address for service.
29. Excluded days.
30. Service by mail.
31. Extension of time limits.
32. Amendment of documents and correction of irregularities.
33. Dispensation by Controller.
34. Publication.

FIRST SCHEDULE.

SECOND SCHEDULE.

[Subsidiary]

298/2000.

**PROTECTION OF NEW PLANT
VARIETIES REGULATIONS**

made under section 46

Citation. **1.** These Regulations may be cited as the Protection of New Plant Varieties Regulations.

Interpretation. **2.** In these Regulations “the Act” means the Protection of New Plant Varieties Act.

Fees. **3.** The fees to be paid in respect of matters arising under the Act or these Regulations shall be those specified in the First Schedule.

First Schedule.

Forms.
Second
Schedule. **4.** (1) The Forms referred to in these Regulations shall be those set out in the Second Schedule.

(2) A requirement under these Regulations to use a Form is satisfied by the use of a replica of that Form or of a Form which is acceptable to the Controller and contains the information required by the Form set out in the Second Schedule.

Agency. **5.** (1) The appointment of an agent or representative under section 12 of the Act shall be by an authorisation of agent which shall be signed by the applicant or person making the application or, if there are more than one, by each applicant or person making the application.

(2) The authorisation of agent appointing an agent or representative may be filed together with the application or within two months from the date such application is filed and, if the appointment is not thus made or is not in accordance with section 12 of the Act and subregulation (1), any procedural steps taken by the agent or representative, other than the filing of the application, shall be deemed not to have been taken.

Application for
grant. **6.** (1) An application for the grant of a plant breeder’s right filed pursuant to section 20(1) of the Act shall be made on Form No. 1 and shall be accompanied by the prescribed fee.

(2) A technical questionnaire filed pursuant to section 20(2) of the Act shall be in the form set out as Form No. 2.

7. A proposal for a variety denomination made pursuant to section 24 of the Act shall be in the form set out as Form No. 3.

Variety denomination.

8. (1) The withdrawal of an application pursuant to the Act shall be addressed to the Controller in writing and signed by each applicant, agent or representative.

Withdrawal of application for grant.

(2) The application fee shall not be refunded if the application is withdrawn.

9. (1) Upon receipt, the Controller shall mark, on each document making up the application for grant of a plant breeder's right the actual date of receipt and the application number consisting of the letters T T, slant, the letter B, slant, the numbers of the year in which the initial papers were received, slant, and a five-digit number allotted in the sequential order in which applications are received, and where any corrections or other later filed documents are received on different dates, the Controller shall also mark their actual date of receipt in the appropriate place on the application.

Marking of application for grant.

(2) The application number allotted under subregulation (1) shall be quoted in all subsequent communications concerning the application.

10. Where an action is filed under section 11 of the Act the person filing the action shall notify the Controller in writing and upon the furnishing of proof to the satisfaction of the Controller, the Controller shall, immediately upon receipt thereof, defer any decision on the application until the Court has made a final order.

Notification of action for assignment or transfer.

11. (1) A request for the registration of an assignment or transfer pursuant to section 13(3) of the Act shall be made on Form No. 4 and shall be accompanied by an original or a certified copy of the document which establishes the assignment or transfer and by the prescribed fee.

Request for registration of assignment or transfer.

(2) Where in the case of a request under subregulation (1), the successor in title does not claim under any document or instrument which is capable, in itself, of establishing the assignment or transfer, he shall, unless the Controller otherwise directs, either upon or with the request, set out the circumstances under which his claim to be the proprietor of the variety is based.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

36

Chap. 82:75 *Protection of New Plant Varieties*

[Subsidiary]

Protection of New Plant Varieties Regulations

(3) If the Controller so requires the circumstances shall be verified by a statutory declaration made on Form No. 5.

Annual fees.
First Schedule.

12. (1) The annual fees payable under section 18 of the Act are set out in the First Schedule.

(2) Upon payment of the annual fee the Controller shall, within two weeks from the date payment is received, furnish or send to the applicant for, or to the owner of the plant breeder's right, a receipt of payment.

(3) Annual fees shall not be refundable.

Renunciations.

13. A declaration by the holder of a plant breeder's right of the renunciation of his right pursuant to section 19(1) of the Act shall be on Form No. 6.

Request for
annulment.

14. (1) A request for an annulment of a plant breeder's right filed pursuant to section 19(3) of the Act shall be on Form No. 7 and shall include a full statement of the grounds upon which the person making the request relies and be accompanied by—

- (a) a duplicate of the request; and
- (b) the prescribed fee.

(2) Upon receipt of a request referred to in subregulation (1) the Controller shall forthwith send the duplicate of the request, together with any annexes, to the holder of the plant breeder's right.

(3) The withdrawal, under section 33(5) of the Act, of a request for an annulment shall be addressed to the Controller, in writing.

Declaration of
forfeiture.

15. (1) Where the Controller declares a plant breeder's right forfeit pursuant to section 19(4) of the Act, the declaration shall be in writing and a duplicate thereof shall forthwith be sent to the holder of the plant breeder's right.

(2) A request for the forfeiture of a plant breeder's right filed pursuant to section 34 of the Act shall be, in duplicate, on Form No. 8 and shall include a statement setting out fully the grounds upon which the person making the request relies.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

16. A request for the cancellation of a registered variety denomination pursuant to section 28(1) of the Act shall be on Form No. 9 and shall be made in duplicate.

Cancellation of registered variety denomination.

17. (1) Where any of the requirements under section 30(1) of the Act have not been complied with, the Controller shall notify the applicant, his agent or representative in writing of the non-compliance, specifying the actions to be taken to complete the application.

Notification of non-compliance.

(2) A notice under subregulation (1) shall be sent to the applicant, his agent or representative wherever possible, not later than one month from the date of the application or the date fixed for submission of the propagating material, as the case may be.

(3) Where the applicant, his agent or representative does not comply with the notification under subregulation (1), or where, despite the corrections made by the applicant, his agent or representative, the Controller is of the opinion that the requirements under section 30(1) of the Act have still not been complied with he shall reject the application pursuant to section 30(2) of the Act and notify the applicant, his agent or representative in accordance with regulation 19.

18. An invitation under section 31(2) of the Act shall—

Invitations.

(a) be in writing; and

(b) specify the fee to be paid.

19. (1) A rejection of any application, request or opposition under the Act shall be in writing and shall specify the reasons therefor.

Rejections.

(2) Where the Controller rejects an application under section 31(8) of the Act, the rejection shall be accompanied by a copy of the examination report, if any, upon which the rejection of the application was based.

20. (1) An opposition to the grant of a plant breeder's right pursuant to section 32(1) of the Act shall be made, in duplicate, on Form No. 10 and shall be accompanied by the prescribed fee.

Oppositions.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

38

Chap. 82:75 *Protection of New Plant Varieties*

[Subsidiary]

Protection of New Plant Varieties Regulations

(2) The Controller shall forthwith send to the applicant for the grant of the plant breeder's right a duplicate of the Form in subregulation (1).

Procedure upon receipt of request for annulment, etc.

21. (1) Upon receipt of any request for annulment or forfeiture or of any opposition, the holder of the plant breeder's right or the applicant, as the case may be, shall, within three months from the receipt of such request or such opposition, file a counter-statement, in duplicate, setting out fully the grounds upon which he contests such request or opposition and the Controller shall send a copy of the counter-statement to the person making the request or to the opponent.

(2) Subject to the provisions of the Act, the Controller may give such directions as he may think fit with regard to the subsequent procedure.

Request for registration of licence contract.

22. A request for the registration of a licence contract pursuant to section 39(3) of the Act shall be on Form No. 11 and shall be accompanied by—

- (a) an original or a certified copy of the licence contract, including all amendments, annexes, riders and other supplements thereto or modifications thereof; and
- (b) the prescribed fee.

Cancellation of registered licence of right.

23. (1) A request for the cancellation of a registered licence of right pursuant to section 43(5) of the Act shall be on Form No. 12 and shall state the name of each beneficiary and whether or not they have agreed to the cancellation.

(2) A request under subregulation (1) shall be accompanied by such evidence as the Controller may require.

Request for registration of compulsory licence.

24. (1) Any person to whom a compulsory licence has been granted pursuant to section 44 of the Act may, in writing, notify the Controller of the grant of the licence and request on Form No. 11 the registration of such grant in the Register.

(2) A request made pursuant to subregulation (1) shall be accompanied by an office copy of the order of the Court and by the prescribed fee.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

25. The Register of Plant Breeder's Rights shall contain, in addition to the matters required under section 47 of the Act, at least the following information:

Register of Plant Breeder's Rights.

- (a) the names and addresses of the holders of plant breeder's rights;
- (b) the names and addresses of the agents or representatives, if any for the time being, of the holders of plant breeder's rights;
- (c) a description of the characteristics of the plant variety;
- (d) if available, the reference number under which the plant variety is recorded in any register of varieties kept by a recognised professional association or in any reference collection of plant material accepted by the Controller;
- (e) the date upon which and the period for which plant breeder's rights in the plant variety were granted; and
- (f) the date upon which such rights expired or were otherwise terminated or, declared null and void, as the case may be.

26. (1) The fee for the examination of the Register under section 48 of the Act shall be as set out in the First Schedule.

Examination of Register. First Schedule.

(2) Subject to the payment of the prescribed fee, the Register shall be made available to the public for examination between the hours of 8.30 a.m. and 3.30 p.m. on any weekday other than Saturdays, Sundays and public holidays.

27. Requests made pursuant to section 48 of the Act for copies of, or for extracts from the information contained in the Register, shall be made to the Controller in writing and shall be subject to payment of the prescribed fee.

Requests for copies or extracts from Register.

28. (1) There shall be furnished to the Controller—

Address for service.

- (a) by every applicant for the grant of a plant breeder's right; and
- (b) by every person (including the applicant for, or

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

40

Chap. 82:75 *Protection of New Plant Varieties*

[Subsidiary]

Protection of New Plant Varieties Regulations

the owner of the plant breeder's right, as the case may be) concerned in any proceedings to which the Act or these Regulations relate,

an address for service in Trinidad and Tobago and the address so furnished or, where another address (being an address in Trinidad and Tobago) has been furnished in place thereof, that address shall be treated for the purposes of the application or those proceedings as the address of that applicant or, as the case may be, of that person.

(2) Where an Attorney-at-law has been appointed, the address of the Attorney-at-law shall, for all purposes connected with the Act and these Regulations, be treated as the address to which communications to the person or persons who appointed the Attorney-at-law shall be transmitted.

Excluded days.

29. When the last day for doing any act or taking any proceedings falls on a day when the office is not open to the public for business, it shall be lawful to do the act or to take the proceeding on the day when the office is next open for business.

Service by mail.

30. (1) Any notice, request or other document sent to the Controller by mail shall be deemed to have been given, made or filed at the time when it would be delivered in the ordinary course of the mail and in proving such sending, it shall be sufficient to prove that the letter containing such notice, request or other document was properly addressed and sent by registered mail.

(2) Subregulation (1) does not apply to the accordance of a filing date.

Extension of time limits.

31. The time or periods prescribed by these Regulations for doing any act or taking any proceedings thereunder, other than times or periods prescribed in regulation 17(2), may be extended by the Controller if he thinks fit, upon such notice to the parties and upon such terms as he may direct, and such extensions may be granted although the time or period for doing such act or taking such proceeding has already expired.

Amendment of documents and correction of irregularities.

32. Any application, notice, request or other document required by these Regulations may be amended and any irregularity in

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

procedure may be excused by the Controller, upon receipt of a request in writing or on his own initiative and upon such terms as he may direct, if in the opinion of the Controller such amendment or correction would be without detriment to the interests of any other person.

33. Where, under these Regulations, any person is required to do any act or thing, or any document or evidence is required to be produced or filed, and it is shown to the satisfaction of the Controller that for any reasonable cause that person is unable to do that act or thing, or that that document or evidence cannot be produced or filed, the Controller may, upon the production of such evidence and subject to such terms as he thinks fit, dispense with the doing of such act or thing, or the production or filing of such document or evidence.

Dispensation by
Controller.

34. The publication of any matter required to be published under the Act shall contain such details of the matter as the Controller considers appropriate.

Publication.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

42

Chap. 82:75

Protection of New Plant Varieties

[Subsidiary]

Protection of New Plant Varieties Regulations

FIRST SCHEDULE

FEEES

<i>Matter</i>	<i>Amount of Fee</i>	<i>Form No.</i>
1. Filing of application for grant of plant breeder's right [section 20(1); regulation 6]	\$1,000.00	1
2. Filing of request for registration of assignment or transfer [section 13(3); regulation 11]	\$150.00	4
3. Renewal of protection:		
1st year		—
2nd year–5th year	No fee	
6th year–10th year	\$150.00 per year	
11th year–18th year [section 18; regulation 12]	\$500.00 per year \$1,000.00 per year	
4. Filing of request for annulment [sections 19(3) and 33(1); regulation 14]	\$150.00	7
5. Testing for distinctiveness, conformity and stability [section 31(2)]	\$500.00 plus the amount payable to the Testing Authority	—
6. Filing of opposition [section 32(1); regulation 20]	\$150.00	10
7. Registration of licence contract and grant of compulsory licence [sections 39(3) and 44; regulations 22 and 24]	\$150.00	11
8. Examination of Register [section 48; regulation 26]	\$40.00	—
9. Provision of certified copies/extracts from Register [section 48; regulation 27]	\$5.00 per page plus \$50.00 certification.	—

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

SECOND SCHEDULE

Regulation 4.

FORMS

Regulation 6(1).

FORM NO. 1

**PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO**

	For Official Use
	Application No.:
	Date of Filing:
	Date of Filing of corrections or later documents:
APPLICATION FOR GRANT OF A PLANT BREEDER'S RIGHT (To be accompanied by the prescribed fee) (Note: Please consult the instructions before completing)	
An official copy of the submitted application showing the date of filing is requested as a certification of priority for an application in the following States:	
1. (a) Applicant(s) name(s) and address(es)	
(b) Nationality(ies)	
2. (a) Address to which correspondence is to be sent:	
(b) Address / /of the applicant / / of one of the applicants / / of the agent/representative / / for service	
3. Species and crop	
4. (a) Proposed denomination: (in block letters) (b) Breeder's reference:	

INSTRUCTIONS

FORM NO. 1

Item 1(a)

State the full name and address (including the country/State) of the applicant whether a natural person or a firm. Where there is more than one applicant, state the names and addresses of all of them. If the space under item 2(a) is insufficient state only the name(s) of the applicant(s). Add the address(es) on a separate page annexed to this Form. Where the applicant wishes to have correspondence sent to his own address the address must be sufficiently complete to ensure delivery by post. Telephone and fax numbers would be appreciated.

Item 1(b)

If the applicant is a person, nationality shall be indicated by the name of the State of which the person is a national.

If the applicant is a legal entity, indicate the name of the State under whose laws they have been constituted and their registered office.

Residence shall be indicated by the name of the State of which the person is a resident.

Item 2

This must be an address in Trinidad and Tobago and must be sufficiently complete to ensure delivery by post. Telephone and fax numbers would also be appreciated. If there is no address in Trinidad and Tobago an address for service must be given. Please refer to regulation 28 of the Protection of New Plant Varieties Regulations.

Where one joint applicant has been authorised to act for the other joint applicants or an agent or representative has been named, attach a power of attorney issued by the applicant(s) on whose behalf the joint applicant, agent or representative is authorised to act.

Item 3

The particulars stated must allow for the exact identification of the variety under both its botanical and technical aspects. The Latin name of the most suitable taxonomical unit (genus, specie, subspecies) should be stated together with the common name.

Item 4

The variety must be filed in each member State under the same denomination. Accents may not be deleted from a variety denomination. Please state the breeder's reference, whether or not a proposal for a variety denomination (as in Form No. 3) has been filed together with this application.

Item 5(a)

Mark the first box with a cross if the applicant(s) is/are the breeders of the variety. Mark the second box with a cross if the applicant(s) is/are not the breeder(s) of the variety and/or if a third person(s) is/are the breeder(s) of the variety. State the name(s) and address(es) of the breeder(s) on a separate page, if necessary and if not stated under Item 2.

Item 5(b)

If the first box has been marked under item 5(a), enter nothing under this Item.

Item 6

Specify all prior applications without exception, in chronological order, including those filed in States that are not members of the International Union for the Protection of New Varieties of Plants (UPOV).

In the column headed “Stage” use the following abbreviations:

- A—application pending.
- B—denomination rejected.
- C—denomination withdrawn.
- D—plant breeder’s right granted or variety entered in official variety list.

The term “type of protection” comprises special titles of protection, plant patents and industrial patents.

“Official variety list” means any list of varieties whose marketing is authorised by the competent authorities.

Item 7

A right of priority may only be claimed within a period of twelve months from the date of filing of the earliest application duly filed for the same variety either by the applicant himself or his predecessor in title but the day of filing shall not be included in that period.

Item 8

“State of application” means the State in which the application was filed.

Item “Other forms and documents attached”

Mark a cross in the box if any of the following documents is attached to this application:

- /1/ Technical Questionnaire as in Form No. 2.
- /2/ Proposal for a Variety Denomination as in Form No. 3.
- /3/ Authorisation of agent/representative.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

48

Chap. 82:75

Protection of New Plant Varieties

[Subsidiary]

Protection of New Plant Varieties Regulations

INSTRUCTIONS—(Continued)

FORM NO. 1

/4/ Under section 21 of the Act, if the priority of the first application is claimed a certified copy of the documents which constitute that application must be forwarded to the Intellectual Property Office within three months of the date of filing this application. Mark a cross in box 4 if that copy is attached.

The additional boxes have been added to allow for the attachment of additional documents/information.

General

*State name (in block letters) under signature(s) and delete whichever is not applicable.

†This Form must be signed by the applicant or by the agent or representative where an authorisation of agent exists.

Please refer to sections 20 and 21 of the Protection of New Plant Varieties Act, before completing this Form.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

FORM NO. 2

Regulation 6(2).

**PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO**

	For Official Use
	Application No.:
	Date of Filing:
TECHNICAL QUESTIONNAIRE (To be completed together with an application for the grant of a plant breeder's right)	
1. Species:	
2. Applicant(s) name(s) and address(es):	
3. Proposed denomination or breeder's reference:	
4. Information on origin, maintenance and reproduction of the variety:	
5. Characteristics of the variety (the number in brackets refers to the corresponding characteristics in the Test guidelines). Please mark the state of expression which best corresponds. Characteristics Example Note Varieties	

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

50

Chap. 82:75 *Protection of New Plant Varieties*

[Subsidiary]

Protection of New Plant Varieties Regulations

FORM NO. 2—(Continued)			
6. Similar varieties and differences from these varieties:			
Denomination of similar variety	Characteristic in which the similar variety is different *	State of expression of similar variety	State of expression of candidate variety
*In the case of identical states of expression of both varieties, please indicate the size of the difference.			
7. Additional information which may help to distinguish the variety:			
7.1 Resistance to pests and diseases (Please specify races/strains, if possible);			
7.2 Special conditions for the examination of the variety:			
7.3 Other information:			

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

INSTRUCTIONS

FORM NO. 2

General

Dates should be written in the year, month, date order (for example 99-01-10).

Please consult section 20 of the Protection of New Plant Varieties Act, before filling in this Form.

Item 1

The particulars stated must allow for the exact identification of the variety under both its botanical and technical aspects. The Latin name of the most suitable taxonomical unit (genus, specie, subspecies) should be stated together with the common name.

Item 2

If the address is the same as that used in the application for plant breeder's right (Form No. 1), add only the name(s) of the applicant(s) under this Item.

Item 3

The variety must be filed in each member State under the same denomination. Accents may not be deleted from a variety denomination. Please state the breeder's reference.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

52

Chap. 82:75 *Protection of New Plant Varieties*

[Subsidiary]

Protection of New Plant Varieties Regulations

Regulation 7.

FORM NO. 3

**PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO**

	For Official Use
	Application No.:
	Date of Receipt:
PROPOSAL FOR A VARIETY DENOMINATION (Note: Please consult the instructions before completing)	
<p>1. (a) This proposal refers to the variety filed under application number:</p> <p>(b) Initially proposed denomination or breeder's reference:</p>	
<p>2. (a) Proposer(s) name(s) and address(es):</p> <p>(b) Address to which correspondence is to be sent:</p> <p>(c) This is the address / / of the proposer / / of one of the proposers / / of the agent/representative (authorisation of agent form attached / / for service)</p>	
<p>3. Species and crop:</p>	
<p>4. Proposed denomination (in block letters):</p>	

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

FORM NO. 3—(Continued)					
<p>5. Denomination submitted or registered in other member States of UPOV:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 20%; padding: 5px;">State</td> <td style="width: 20%; padding: 5px;">Stage</td> <td style="padding: 5px;">Denomination (if different from Item 3 above).</td> </tr> </table>	State	Stage	Denomination (if different from Item 3 above).		
State	Stage	Denomination (if different from Item 3 above).			
<p>6. / / The proposed denomination has been filed or registered for the proposer(s) as a trade mark in the State of application, in a UPOV member State or with the International Bureau of the World Intellectual Property Organisation (WIPO) in respect of products that are identical or similar within the meaning of trade mark law.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 30%; padding: 5px;">State and/or Date of application WIPO</td> <td style="width: 20%; padding: 5px;">Date of registration</td> <td style="padding: 5px;">Registration Number</td> </tr> </table>	State and/or Date of application WIPO	Date of registration	Registration Number		
State and/or Date of application WIPO	Date of registration	Registration Number			
<p>7. Trade mark renunciation in accordance with section 26 of the Protection of New Plant Varieties Act.</p>					
<p>I/We hereby propose the variety denomination and declare that to the best of my/our knowledge the information given in this Form and in the annex(es) is complete and correct.</p> <p>*Signature(s)</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border-top: 1px dotted black; padding-top: 5px;">†(Applicant/ Agent/Representative)</td> <td style="width: 50%; border-top: 1px dotted black; padding-top: 5px;">Date/place</td> </tr> <tr> <td style="width: 50%; border-top: 1px dotted black; padding-top: 5px;">†(Applicant/ Agent/Representative)</td> <td style="width: 50%; border-top: 1px dotted black; padding-top: 5px;">Date/place</td> </tr> </table>		†(Applicant/ Agent/Representative)	Date/place	†(Applicant/ Agent/Representative)	Date/place
†(Applicant/ Agent/Representative)	Date/place				
†(Applicant/ Agent/Representative)	Date/place				

INSTRUCTIONS

FORM NO. 3

General

Dates should be written in the year, month, date order (for example 99-01-10).

“State of application” means the State in which the application was filed.

“UPOV” means the International Union for the Protection of New Varieties of Plants.

* State name (in block letters) under signature(s) and delete whichever is not applicable.

† This Form must be signed by the applicant or by the agent or representative where an authorisation of agent exists.

Please refer to section 24 of the Protection of New Plant Varieties Act, before completing this Form.

Item 1

Where this Form is filed simultaneously with the application for the grant of a plant breeder’s right (Form No. 1) nothing is to be entered under this Item. However, where this Form is filed at a later stage the number which the Intellectual Property Office has allotted the application for plant breeder’s right is to be stated under Item 1(a).

Item 2

If the address(es) is/are the same as that used in the application for grant of a plant breeder’s right, add only the name(s) of the proposer(s). Please refer to the instructions for Form No. 1, Item 2.

Item 3

The particulars stated under this Item must allow for the exact identification of the variety under both its botanical and technical aspects. The Latin name of the most suitable taxonomical unit (genus, specie, subspecies) should be stated together with the common name.

Item 4

The variety must be filed in each member State under the same denomination. Accents may not be deleted from a variety denomination.

Item 5

Specify all prior variety denominations without exception in chronological order. The variety denominations used are to be stated at the end of the list.

In the column headed “Stage” use the following abbreviations:

- A—application pending.
 - B—denomination rejected.
 - C—denomination withdrawn.
 - D—denomination accepted.
-

FORM NO. 4—(Continued)	
<p>6. Documents attached: / / Original or certified copy of deed of assignment or transfer / / Original or certified copy of contract / / Other document establishing title / / Statement of claim to ownership of the variety / / Form No. 5</p>	
<p>I/We declare that to the best of my/our knowledge the information given in this Form and in the annex(es) is complete and correct.</p> <p>†Signature(s)</p> <p style="text-align: center;">..... (Place/date)</p> <p style="text-align: center;">..... (Place/date)</p>	
<p>To: The Controller, Intellectual Property Office Ministry of Legal Affairs Port-of-Spain.</p>	

INSTRUCTIONS

FORM NO. 4

General

* State the number which has been allotted to the application for the plant breeder's right or under which the plant breeder's right has been registered by the Intellectual Property Office.

† State name (in block letters) under signature(s).

Dates should be written in the year, month, date order (for example 99-01-10).

Both the person(s) making the request as well as the assignor(s) or assignee(s) are required to sign this request.

Where the Controller, Intellectual Property Office so requests, this Form must be followed by the filing of Form No. 5.

Please refer to sections 9 to 11 and to section 13 of the Protection of New Plant Varieties Act, before filling in this Form.

Item 1

State the name(s) and address(es) of the person(s) making the request who may either be the assignor(s)/transferor(s) of the plant breeder's right or its assignee(s)/ transferee(s).

Item 2

State by what means the application for the grant of a plant breeder's right was assigned or transferred and give particulars. If by the Court, please state High Court action number and date of judgment.

Item 3

State the name(s) and address(es) of the assignor(s) or person(s) making the assignment or transfer, if different from Item 1.

Item 4

State the name(s) and address(es) of the assignee(s) or person(s) in whose favour the assignment or transfer was made, if different from Item 1.

Item 5

Please refer to regulation 28 of the Protection of New Plant Varieties Regulations.

Item 6

A successor in title must prove his title, whether it was obtained by assignment or succession. If it is proposed to attach a statement of claim, please consult regulation 11(2) of the Protection of New Plant Varieties Regulations.

FORM NO. 5

Regulation
11(3).

**PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
 INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO**

	For Official Use
	Date of Filing:
DECLARATION (To be accompanied by a statement of claim to ownership of the variety)	
<p>*I/We of do hereby solemnly and sincerely declare that the particulars set out in the Statement of Claim to Ownership of the Variety exhibited and marked and filed by me/us in connection with my/our request to be registered as the successor(s) in title or new owner(s) of application number for the grant of a plant breeder's right/plant breeder's right registration number* are true and correct in every material fact and document affecting the present ownership of the above mentioned application/plant breeder's right*.</p> <p>And I/We make this solemn declaration conscientiously believing the same to be true and according to the Statutory Declarations Act, Ch. 7:04 and I am/we are aware that if there is any statement in this declaration which is false in fact which I/we know or believe to be false or do not believe to be true that I am/we are liable to fine and imprisonment.</p> <p>Declared at by the above-named } † the above-named } this day of , 20..... } Before me ‡</p>	
<p>To: The Controller, Intellectual Property Office Ministry of Legal Affairs Port-of-Spain.</p>	

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

60

Chap. 82:75

Protection of New Plant Varieties

[Subsidiary]

Protection of New Plant Varieties Regulations

INSTRUCTIONS

FORM NO. 5—*Continued*

General

* Delete whichever is not applicable.

† This declaration may be made and, if made, must be signed by the person(s) making the request in Form No. 4.

‡ If made in Trinidad and Tobago this declaration must be made before a Commissioner of Affidavit, Notary Public, Justice of the Peace or other officer authorised in law to administer an oath for the purpose of legal proceedings. If made outside of Trinidad and Tobago it must be made before a Trinidad and Tobago Consul or Notary Public.

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

FORM NO. 6

Regulation 13.

**PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO**

	For Official Use
	Date of Receipt:
DECLARATION OF RENUNCIATION IN THE MATTER OF plant breeder's right registration number*:	
1. I/We of being the holder(s) of the above-mentioned plant breeder's right hereby declare that I/we renounce and surrender all interest in said plant breeder's right.	
2. The date of termination of my/our interest is:	
3. The date of expiration of the above-mentioned plant breeder's right is:	

FORM NO. 6—(Continued)	
<p>4. Is the plant breeder’s right held jointly. If so, please state the name(s) and address(es) of the other holder(s) of the right:</p> <p style="margin-left: 40px;">I/We declare that to the best of my/our knowledge the information given in this Form is complete and correct.</p> <p style="margin-left: 40px;">‡Signature(s)</p> <p style="margin-left: 100px;">..... (Place/date)</p> <p style="margin-left: 100px;">..... (Place/date)</p>	
<p>To: The Controller, Intellectual Property Office Ministry of Legal Affairs Port-of-Spain.</p>	

INSTRUCTIONS

FORM NO. 6

General

* State the number under which the plant breeder's right has been registered by the Intellectual Property Office.

† Delete whichever is not applicable.

‡ State name (in block letters) under signature(s).

Date (s) should be written in the year, month, date order (for example 99-01-10).

Item 1

State the name(s) and address(es) of the person(s) making this declaration. Such persons may be one or more of the holders of the plant breeder's right.

Item 2

If the renunciation is to take effect from or on a specific date, please state date. Otherwise, in accordance with section 19(1) of the Protection of New Plant Varieties Act, the date of termination shall be the date of receipt of this Form by the Intellectual Property Office.

Item 3

The date of expiration of the plant breeder's right shall be stated under this Item.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

64

Chap. 82:75 *Protection of New Plant Varieties*

[Subsidiary]

Protection of New Plant Varieties Regulations

Regulation
14(1).

FORM NO. 7

**PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO**

	For Official Use
	File No.:
	Date of Receipt:
<p>REQUEST FOR ANNULMENT OF PLANT BREEDER'S RIGHT (To be accompanied by a duplicate and the prescribed fee)</p>	
REQUEST IS HEREBY MADE that plant breeder's right registration number* be declared null and void.	
1. The right / / is subsisting / / has expired	
2. Name(s) and address(es) of person(s) making the request	
3. Name(s) and address(es) of / / rightholder(s) / / former rightholder(s)	
4. (a) The ground(s) for the request is/are as follows: (b) / / A written statement of the grounds for my/our request is attached.	

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

FORM NO. 7—(Continued)	
5. My/Our address for service in Trinidad and Tobago is:	
<p>I/We declare that to the best of my/our knowledge the information given in this Form and in the annex(es) is complete and correct.</p> <p>†Signature(s)</p> <p>..... (Place/date)</p> <p>..... (Place/date)</p>	
To: The Controller, Intellectual Property Office Ministry of Legal Affairs Port-of-Spain.	

INSTRUCTIONS

FORM NO. 7

General

* State the number under which the plant breeder's right has been registered by the Intellectual Property Office.

† State name (in block letters) under signature(s).

Date should be written in the year, month, date order (for example 99-01-10).

Item 1

State whether to the best of your knowledge the plant breeder's right is subsisting or has expired. If expired, state also the date of expiration, if known.

Item 2

State the name(s) and address(es) of the person(s) making the request.

Item 3

Where the right is subsisting state the name(s) and address(es) of the rightholder(s). Where the right is expired the name(s) and address(es) of the former rightholder(s) should be stated.

Item 4

Details of the ground(s) relied on for making this request should be stated under this Item. Alternatively, if a statement of the grounds is attached, please state. Please refer to sections 19 and 33 of the Protection of New Plant Varieties Act.

Item 5

Please refer to regulation 28 of the Protection of New Plant Varieties Regulations.

FORM NO. 8

Regulation
15(2).

PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO

	For Official Use
	File No.:
	Date of Receipt:
REQUEST FOR FORFEITURE OF PLANT BREEDER'S RIGHT (To be accompanied by a duplicate)	
REQUEST IS HEREBY MADE that plant breeder's right registration number* be declared null and void.	
1. Name(s) and address(es) of person(s) making the request:	
2. Name(s) and address(es) of rightholder(s):	
3. (a) The ground(s) for the request is/are as follows: (b) / / A written statement of the grounds for my/our request is attached	
4. My/Our address for service in Trinidad and Tobago is:	
I/We declare that to the best of my/our knowledge the information given in this Form and in the annex(es) is complete and correct. †Signature(s) (Place/date) (Place/date)	
To: The Controller, Intellectual Property Office Ministry of Legal Affairs Port-of-Spain.	

INSTRUCTIONS

FORM NO. 8

General

* State the number under which the plant breeder's right has been registered by the Intellectual Property Office.

† State name (in block letters) under signature(s).

Dates should be written in the year, month, date order (for example 99-01-10).

Item 1

State the name(s) and address(es) of the person(s) making the request.

Item 2

State the name(s) and address(es) of the rightholder(s).

Item 3

Details of the ground(s) relied on for making this request should be stated under this Item. Alternatively, if a statement of the ground(s) is attached, please state.

Item 4

Please refer to regulation 28 of the Protection of New Plant Varieties Regulations.

FORM NO. 9

Regulation 16.

**PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO**

	For Official Use
	File No.:
	Date of Receipt:
REQUEST FOR CANCELLATION OF REGISTERED VARIETY DENOMINATION (To be made in duplicate)	
REQUEST IS HEREBY MADE that the variety denomination registered as number* be cancelled.	
1. Name(s) and address(es) of person(s) making the request:	
2. Nature of the right(s)/interest(s) of person(s) making the request: / / entitled to offer for sale or market the variety / / holder(s) of plant breeder's right / / other (please specify)	
3. (a) The ground(s) for the request is/are as follows: (b) / / A written statement of the ground(s) for my/our request is attached (c) / / Evidence in support of the ground(s) for this request is attached	
4. Name(s) and address(es) of owner(s) of variety:	

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

70

Chap. 82:75 *Protection of New Plant Varieties*

[Subsidiary]

Protection of New Plant Varieties Regulations

FORM NO. 9—(Continued)	
<p>I/We declare that to the best of my/our knowledge the information given in this Form is complete and correct.</p> <p>†Signature(s)</p> <p>..... (Place/date)</p> <p>..... (Place/date)</p>	
<p>To: The Controller, Intellectual Property Office Ministry of Legal Affairs Port-of-Spain.</p>	

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

INSTRUCTIONS

FORM NO. 9

General

* State the number under which the plant breeder's right has been registered by the Intellectual Property Office.

† State name (in block letters) under signature(s).

Dates should be written in the year, month, date order (for example 99-01-10).

Item 1

State the name(s) and address(es) of the person(s) making the request.

Item 2

The nature of the right(s) or interest(s) of the person(s) making this request should be stated. If the person making the request is not the holder of the registered right, please state whether the right holder has agreed to the cancellation of the right or has participated in cancellation proceedings.

Item 3

Details of the ground(s) relied on for making this request should be stated. Alternatively if a statement or evidence of the ground(s) is attached, please state. Please refer to section 28 of the Protection of New Plant Varieties Act.

Item 4

The name(s) and address(es) of the owner(s) of the variety should be stated, if different from Item 1.

Regulation 20(1).

FORM NO. 10

**PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
 INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO**

	For Official Use
	File No.:
	Date of Filing:
OPPOSITION (To be accompanied by a duplicate and the prescribed fee)	
IN THE MATTER OF the application number* for grant of a plant breeder's right	
1. I/We of hereby give notice of my/our intention to oppose the grant of a plant breeder's right application number* which was published under the above number in the periodical of the day of 20..... No. page	
2. (a) The grounds of opposition are as follows: (b) / / A written statement of the grounds for my/request is attached (c) / / Evidence in support of the grounds for the request is attached	
3. My/Our address for service in Trinidad and Tobago is:	

FORM NO. 10—(Continued)	
<p>I/We declare that to the best of my/our knowledge the information given in this Form and in annex(es) is complete and correct.</p> <p>†Signature(s)</p> <p>.....</p> <p>(Place/date)</p> <p>.....</p> <p>(Place/date)</p>	
<p>To: The Controller, Intellectual Property Office Ministry of Legal Affairs Port-of-Spain.</p>	

INSTRUCTIONS

FORM NO. 10

General

* State the number which has been allotted to the application for plant breeder's right by the Intellectual Property Office.

† State name (in block letters) under signature(s).

Dates should be written in the year, month, date order (for example 99-01-10).

Please refer to section 32(2) of the Protection of New Plant Varieties Act before filling in this Form.

Item 1

State the name(s) and address(es) of the person(s) filing this opposition. State also the particulars of the periodical in which the application for plant breeder's right was published by the Intellectual Property Office.

Item 2

State in detail the grounds on which the application is opposed. Alternatively, attach a statement of the grounds. If evidence in support of the ground(s) is attached, please state.

Item 3

Please refer to regulation 28 of the Protection of New Plant Varieties Regulations.

FORM NO. 11

Regulations 22
and 24(1).

**PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO**

	For Official Use
	Date of Receipt:
REQUEST FOR THE REGISTRATION OF A LICENCE CONTRACT OR COMPULSORY LICENCE (To be accompanied by the prescribed fee)	
REQUEST IS HEREBY MADE for the registration of a / / Licence Contract / / Compulsory Licence the particulars of which are as follows:	
1. Name(s) and address(es) of person(s) making the request:	
2. Applicant(s)/Rightholder(s) name(s) and address(es):	
3. Number of / / application for the grant of a plant breeder's right / / registered plant breeder's right	
4. Document(s) attached: / / original or certified copy of licence contract / / office copy of the Order of the Court / / other documents relating to the licence	

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

76

Chap. 82:75 *Protection of New Plant Varieties*

[Subsidiary]

Protection of New Plant Varieties Regulations

FORM NO. 11—(Continued)	
<p>I/We declare that to the best of my/our knowledge the information given in this Form and in the annex(es) is complete and correct.</p> <p>*Signature(s)</p> <p>..... (Place/date)</p> <p>..... (Place/date)</p> <p>..... (Place/date)</p> <p>Applicant/Holder (Place/date)</p> <p>..... (Place/date)</p> <p>Applicant/Holder (Place/date)</p>	
<p>To: The Controller, Intellectual Property Office Ministry of Legal Affairs Port-of-Spain.</p>	

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

INSTRUCTIONS

FORM NO. 11

General

- * State name (in block letters) under signature(s). This request must be signed both by the person(s) making the request and the applicant(s) or holder(s) of the plant breeder's right.

This Form may be used to request registration of any of the types of licences mentioned in the Form. For the particular legal provisions relevant to each type of licence, please consult Part XIV of the Protection of New Plant Varieties Act, particularly sections 39 to 42 and section 44 of the Act.

Dates should be written in the year, month, date order (for example 99-01-10).

Item 1

State the name(s) and address(es) of the person(s) making the request.

Item 2

Delete whichever is not applicable. Where the request is made in respect of an application for a plant breeder's right, state the name(s) and address(es) of the applicant(s). Where the request is made in respect of a plant breeder's right state the name(s) and address(es) of the holder(s) of the right.

Item 3

State either the number which has been allotted to the application for plant breeder's right or the number under which the plant breeder's right has been registered by the Intellectual Property Office.

Item 4

If the request is in respect of a licence contract, the Form should be accompanied by an original or certified copy of the licence contract together with all relevant annexes. If the request is in respect of a compulsory licence, the Form should be accompanied by an office copy of the Order of the Court. The prescribed fee is payable in respect of both requests.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

www.legalaffairs.gov.tt

78

Chap. 82:75 *Protection of New Plant Varieties*

[Subsidiary]

Protection of New Plant Varieties Regulations

Regulation 23.

FORM NO. 12

**PROTECTION OF NEW PLANT VARIETIES ACT (CH. 82:75)
INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO**

	For Official Use
	File No.:
	Date of Receipt:
REQUEST FOR CANCELLATION OF REGISTERED LICENCE OF RIGHT	
REQUEST IS HEREBY MADE that entry number* in the Register be cancelled.	
1. Name(s) and address(es) of person(s) making the request:	
2. Number of / / registered plant breeder's right / / application for plant breeder's right	
3. (a) The grounds for the request are as follows: (b) / / A written statement of the grounds for my/our request is attached (c) / / Evidence in support of the grounds for the request is attached	
4. Name(s) and address(es) of beneficiary(ies) and whether or not they have agreed to the cancellation of the entry / / Evidence of agreement is attached	

UNOFFICIAL VERSION

UPDATED TO 31ST DECEMBER 2016

FORM NO. 12—(Continued)	
<p>I/We declare that to the best of my/our knowledge the information given in this Form and in the annex(es) is complete and correct.</p> <p>†Signature(s)</p> <p>.....</p> <p>(Place/date)</p> <p>.....</p> <p>(Place/date)</p>	
<p>To: The Controller, Intellectual Property Office Ministry of Legal Affairs Port-of-Spain.</p>	

INSTRUCTIONS

FORM NO. 12

General

* State the number of the entry in the Register of Plant Breeder's Right which is to be cancelled.

† State name (in block letters) under signature(s).

Dates should be written in the year, month, date order (for example 99-01-10).

Please refer to section 43 of the Protection of New Plant Varieties Act and regulation 23 of the Protection of New Plant Varieties Regulations, before completing this Form.

Item 1

State the name(s) and address(es) of the person(s) making this request. Where the request is made in respect of an application for a plant breeder's right state the name(s) and address(es) of the applicant(s). Where the request is made in respect of a plant breeder's right state the name(s) and address(es) of the holder(s) of the right.

Item 2

State the number which has been allotted to the application for the plant breeder's right or under which the plant breeder's right has been registered by the Intellectual Property Office.

Item 3

Details of the ground(s) relied on for making this request should be stated. Alternatively, if a statement or evidence of the grounds is attached, please state.

Item 4

If the person making the request is not the holder of the plant breeder's right, please signify the name(s) and address(es) of each beneficiary and whether or not they have agreed to this request. The Controller may request evidence of agreement. If so, please state whether such evidence is attached.

**PROTECTION OF NEW PLANT
VARIETIES ORDER**

made under section 8

124/1998.
[138/2004
34/2006
157/2009
159/2009].

1. This Order may be cited as the Protection of New Plant Varieties Order. Citation.

2. Hereunder is a list of plant families approved by the Minister, as genera to which this Act applies: List of genera.

Bromiliaceae and Orchidaceae;

Anthuriums;

Heliconiaceae;

Sterculiaceae;

Cajanus and Vigna; and

Theobroma cacao L.
