

Ministry of Agriculture and  
Rural Development  
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Socialist Republic of Vietnam  
**Independence - Freedom - Happiness**  
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No: **119/2001 /TT-BNN**

Hanoi, 21 December 2001

**CIRCULAR ON THE IMPLEMENTATION OF GOVERNMENT  
DECREE  
No 13/2001/ND-CP DATED 20 APRIL 2001  
ON THE PROTECTION OF NEW PLANT VARIETIES**

**I. GENERAL PROVISIONS**



b) **Criteria for an Application:**

A single application is required for the issuance of a protection title for a single new plant variety;

All the documents in the application must be done in Vietnamese with the exception of original documents, or their copies, submitted in support of the application;

All documents must be written on white A4 paper with the exception of the supporting documents.

**3. Criteria for entity the procedures for protection of new plant varieties: ?**

The Office For The Protection of New Plant Varieties (hereinafter referred as The Office For Protection) only conducts direct interactions with the following entities undertaking procedures for the protection of new plant varieties :

- a) Direct entities with authorization provided for in Article 5 of the Decree;
- b) Legitimate authorized representatives of such entities;
- c) The head of authorized representative offices or branches of entities;
- d) Industrial property agents.

**4. Authorization Regulations:**

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## b) Receiving Applications

Upon receiving an application, the Office for Protection is required to do the following :

Check the list of documents required in an application;

Stamp the date the application was received;

Check the said list of documents against the actual number of documents;

Conduct a preliminary check to see if the application has sufficient documents as required under the said point a) category 2 so as to enable a conclusion to be made on the receipt of the applications;

Send the applicant the stamped application form acknowledging

In cases where the application needs to be modified and/ or amended, the valid filing date is the date on which the organizations or individuals have completed amendments requested by the Office for Protection.

c) Determining the Validity of the Application

In the period of 90 days after receiving the application, the Office for Protection must decide:

If the applicant can be classed as having the right to file an application;

If the new plant variety belongs on the protected species and genera list;

If the new plant variety is from countries that signed agreements with Vietnam or subscribed with Vietnam to international agreements concerning the new plant varieties;

If the new plant variety is commercially new;

If the denomination of the plant variety is proper.

d) During the first step of the examination, the applicant has the right to rename the filed new plant variety and pay fees for that procedure.

e) The contents of notification of the results of the first step of examination: ?  
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Where the original protection title document is lost for plausible reasons, the Ministry of Agriculture and Rural Development will grant copies of the protection title documents under the category 5, Article 8 of the Decree.

#### **11. Duration of Protection Titles**

The period of protection fo

the leadership of the Ministry for approval within 2 months from the date of receiving the application.

## **2. Compulsory License**

The application for a compulsory license is made under the Office for Protection's set format. The Ministry of Agriculture and Rural Development scrutinize and approve the application for compulsory licenses and the supporting materials proving the new plant variety's special significance for security, national defense, public health and environmental protection.

## **3. The Obligations of the Holders of Protection Titles**

- a) The holder of a protected title is obliged to maintain the stocks of the protected variety and to provide them to the licensees of the license and the test agency at their request.
- b) The recipient of a protection title must pay the fee for the granting of the protection title, the renewal fee for the first year before the issuance, the renewal fees for following years, the fee for DUS test and other fees and charges as provided. The payment of a renewal fee for protection title may be after the deadline but no later than 6 months from the said deadline and the holders must pay an extra penalty fee of 10% for each month after that deadline. The rate of the fees and charges are set by the Ministry of Finance.

## **III. STATE MANAGEMENT OF NEW PLANT VARIETIES**

1. The Ministry of Agriculture and Rural Development has established the Office for Protection under the Department of Science, Technology and Product Quality.  
The Office For Protection Of New Plant Varieties is responsible for issuing the necessary sample documents concerning the application for the issuance of protection titles; the approval and registration of licenses of ownership and the right of use of new plant varieties and compulsory licenses, as well as the promulgation of the regulations on the examination of applications.
2. The Departments of Agriculture and Rural Development in provinces and centrally-run cities are responsible for activities concerning the protection of new plant varieties in their respective localities. This includes guiding individuals and organizations on the production and commercialization of the protected new plant varieties, as well as the inspection and handling of infringements of rights over plant varieties in their localities.
3. This Circular will come into effect 15 days after the day of signing.

**For the Minister of Agriculture and Rural Development  
Vice Minister**

## **Bui Ba Bong**