The background features a stylized illustration of a parrot perched on a branch with several yellow citrus fruits and green leaves. The parrot is positioned on the left side, facing right. The branches and fruits are scattered across the frame, creating a naturalistic yet artistic setting. The central text is contained within a dark blue, scalloped-edged frame.

COMPREHENSIVE
OVERVIEW OF THE
PROTECTION OF PLANT
VARIETIES AND FARMERS
RIGHTS ACT, 2001

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PURPOSE OF THE ACT

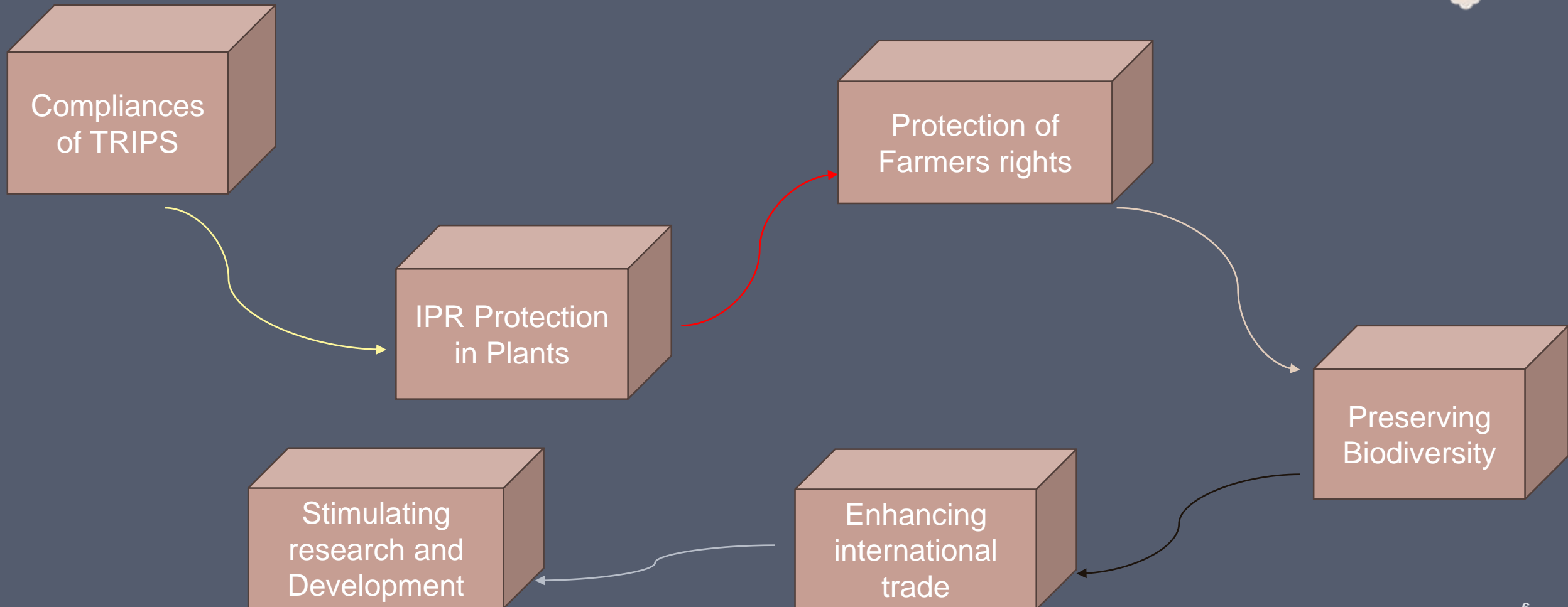
- The primary aim of the Protection of Plant Varieties and Farmers' Rights Act, 2001, is to create a robust legal framework that fosters agricultural innovation, ensures the protection of new plant varieties, and acknowledges the pivotal role of farmers in conserving genetic diversity.
- This Act seeks to harmonize the rights of breeders, researchers, and farmers, promoting sustainable agricultural growth in India.



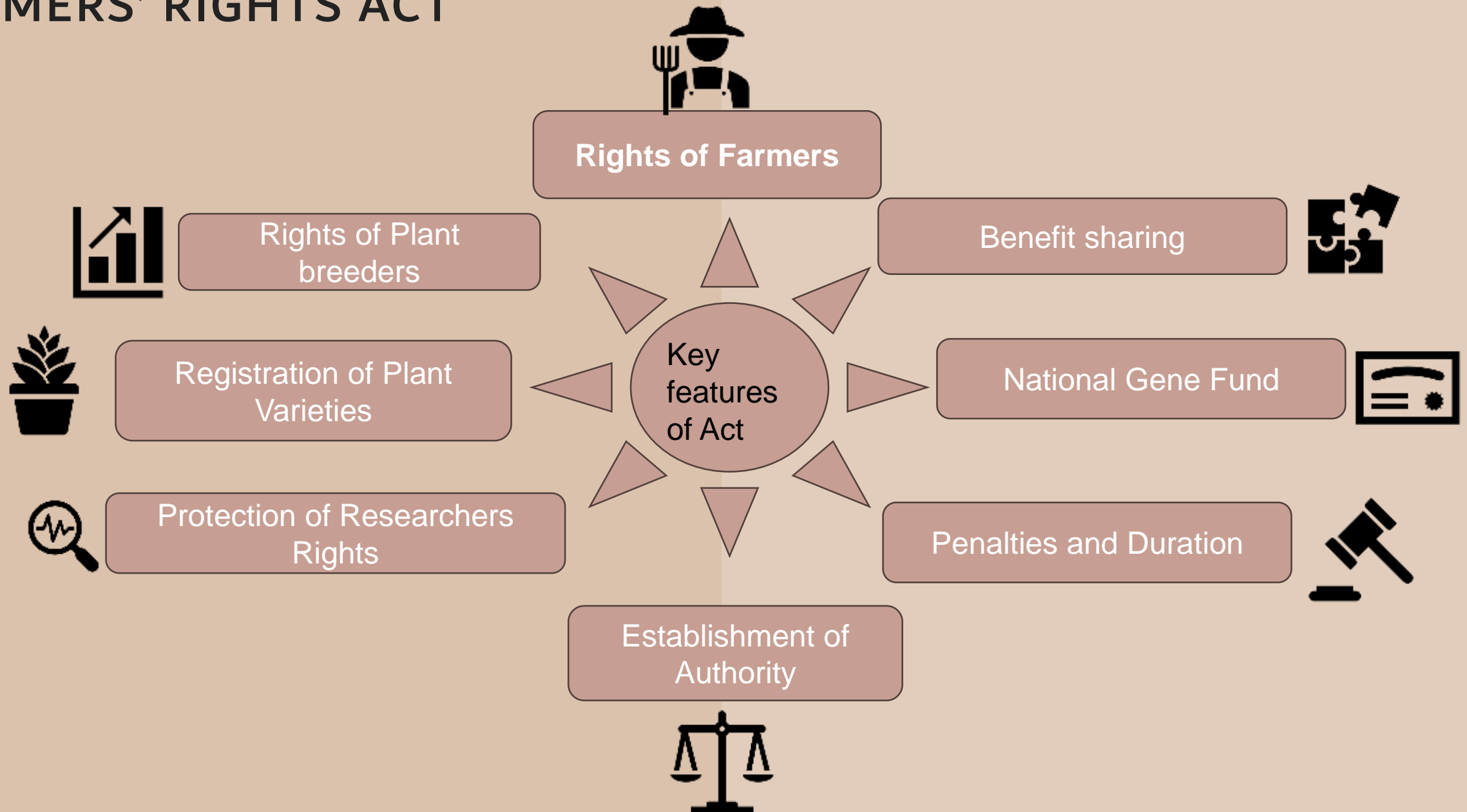
OBJECTIVES

- **Encouragement of Breeding Efforts:** To incentivize breeders to develop new, improved plant varieties by granting them intellectual property rights.
- **Recognition of Farmers' Rights:** To acknowledge and protect the rights of farmers as cultivators, breeders, and preservers of plant genetic resources.
- **Conservation of Genetic Resources:** To promote the conservation and sustainable use of plant genetic resources essential for agriculture.
- **Benefit Sharing:** To ensure equitable sharing of benefits arising from the use of plant genetic resources with the farming community.
- **Facilitation of Research:** To permit the use of protected varieties for research purposes and foster innovation.
- **Balanced Rights Framework:** To maintain a balance between the rights of breeders and the interests of farmers, ensuring food security and agricultural sustainability.
- **Implementation of TRIPS Obligations:** To fulfill India's international commitments under the TRIPS Agreement by establishing an effective sui generis system for the protection of plant varieties.

WHY IS THE PROTECTION OF PLANT VARIETIES NECESSARY IN INDIA



KEY FEATURES OF PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT



INTRODUCTION

The Protection of Plant Varieties and Farmers' Rights Act, 2001 (PPVFR Act) is a landmark legislation enacted in India to safeguard the interests of plant breeders, researchers, and farmers.

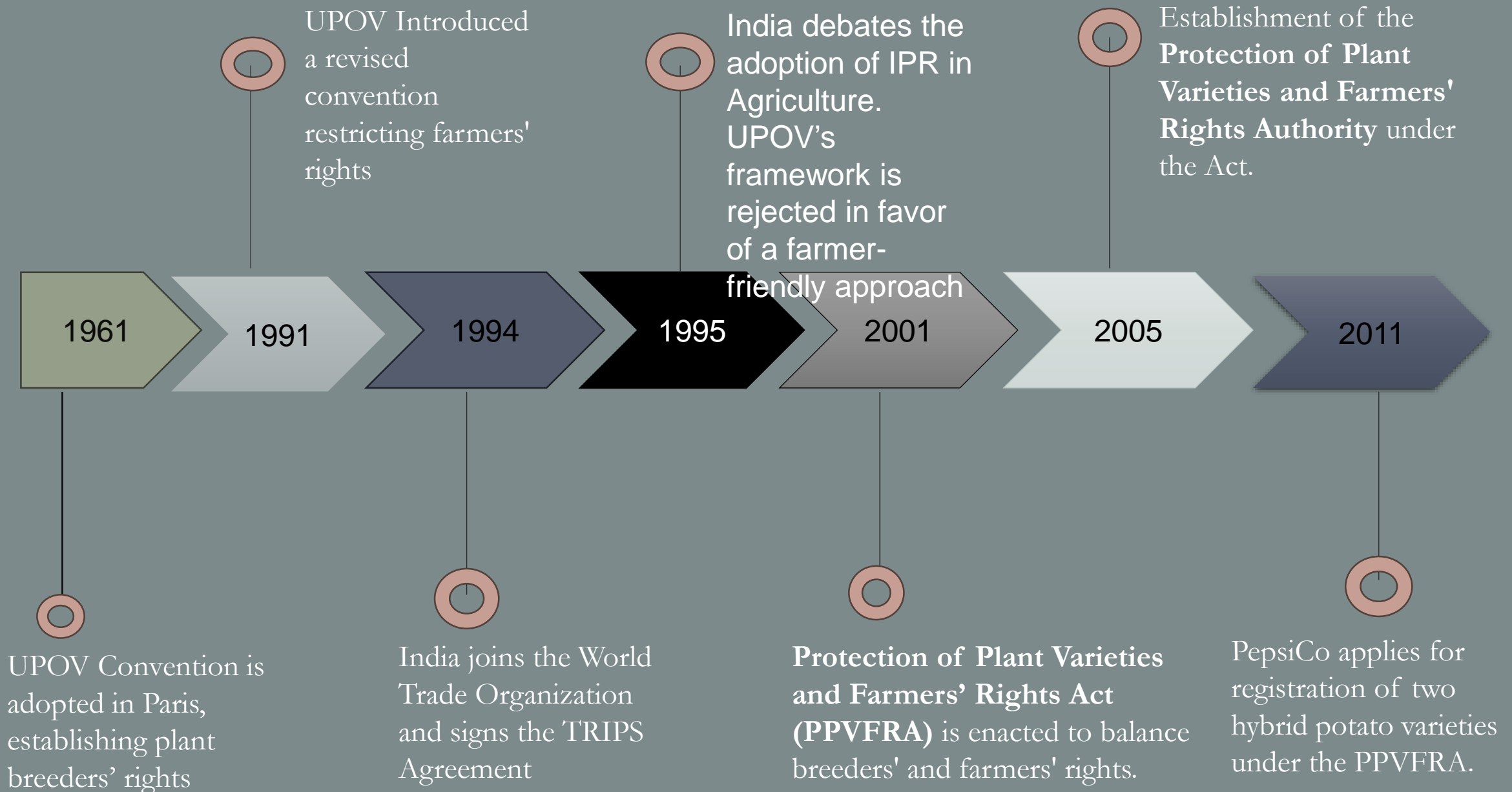
It aligns with India's obligations under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, while addressing national priorities related to agricultural biodiversity and farmers' rights.^a

The Act aims to encourage innovation in the development of new plant varieties, ensure the availability of high-quality seeds, and simultaneously recognize the critical role of farmers in preserving plant genetic resources.

It establishes a balanced framework for granting intellectual property rights to plant breeders and protecting the traditional knowledge and contributions of farmers.



TIMELINE OF THE ACT



SHORT TITLE, EXTENT AND COMMENCEMENT

1. Short title, extent and commencement.—

(1) This Act may be called the Protection of Plant Varieties and Farmers' Rights Act, 2001.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

DEFINITIONS (SECTION-2)

- (b) “**benefit sharing**”, in relation to a variety, means such proportion of the benefit accruing to a breeder of such variety or such proportion of the benefit accruing to the breeder from an agent or a licensee of such variety, as the case may be, for which a claimant shall be entitled as determined by the Authority under section 26;
- (c) “**breeder**” means a person or group of persons or a farmer or group of farmers or any institution which has bred, evolved or developed any variety;
- (h) “**essential characteristics**” means such heritable traits of a plant variety which are determined by the expression of one or more genes of other heritable determinants that contribute to the principle features, performance or value of the plant variety;
- (j) “**extant variety**” means a variety available in India which is— (i) notified under section 5 of the Seeds Act, 1966 (54 of 1966); or (ii) farmers’ variety; or (iii) a variety about which there is common knowledge; or (iv) any other variety which is in public domain;
- “**farmer**” means any person who— (i) cultivates crops by cultivating the land himself; or (ii) cultivates crops by directly supervising the cultivation of land through any other person; or (iii) conserves and preserves, severally or jointly, with any other person any wild species or traditional varieties or adds value to such wild species or traditional varieties through selection and identification of their useful properties;

DEFINITIONS (CONTD.)

- “**farmers’ variety**” means a variety which— (i) has been traditionally cultivated and evolved by the farmers in their fields; or (ii) is a wild relative or land race of a variety about which the farmers possess the common knowledge;
- “**seed**” means a type of living embryo or propagule capable of regeneration and giving rise to a plant which is true to such type;
- “**variety**” means a plant grouping except micro-organism within a single botanical taxon of the lowest known rank, which can be— (i) defined by the expression of the characteristics resulting from a given genotype of that plant grouping; (ii) distinguished from any other plant grouping by expression of at least one of the said characteristics; and (iii) considered as a unit with regard to its suitability for being propagated, which remains unchanged after such propagation, and includes propagating material of such variety, extant variety, transgenic variety, farmers’ variety and essentially derived variety.



PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT, 2001.



- Establishment of the Authority
- Section 3: Establishment of Authority

1. Notification and Establishment:

The Central Government, through a notification in the Official Gazette, will establish the Protection of Plant Varieties and Farmers' Rights Authority (PPV&FRA).

- The Protection of Plant Varieties and Farmers' Rights Authority (PPVFR Authority) was established by the Department of Agriculture and Cooperation, Ministry of Agriculture, on 11 November 2005.



THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS AUTHORITY



Body Corporate: The Authority shall be a body corporate with:

- Perpetual succession: It continues to exist regardless of change in its membership.
- A common seal: Any document that is signed on behalf of the authority is legally binding on the authority.
- Powers to acquire, hold, and dispose of movable and immovable properties: authorities poses the right to acquire assets and retain ownership and sell and transfer.
- Powers to enter into contracts and to sue or be sued in its name.



Perpetual succession



Powers to acquire, hold, and dispose of movable and immovable properties



Powers to enter into contracts and to sue or be sued in its name

COMPOSITION OF THE AUTHORITY



- **Composition:**

- The Authority shall consist of:

Chairperson:

Appointed by the Central Government, the Chairperson must be a person of outstanding caliber with extensive experience in plant varietal research or agricultural development. Fifteen

Members: 15

- Appointed by the Central Government, including ex officio and nominated members:
- Agriculture Commissioner, Department of Agriculture and Cooperation. Deputy Director General (Crop Sciences), Indian Council of Agricultural Research. Joint Secretary (Seeds), Department of Agriculture and Cooperation. Horticulture Commissioner. Director, National Bureau of Plant Genetic Resources.
- Representatives from Departments of Biotechnology, Environment and Forests, and Law, Justice, and Company Affairs.
- Representatives from farmers' organizations, tribal organizations, seed industry, agricultural universities, and women's organizations..

THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS AUTHORITY (CONTD.)



Head Office: The head office of the Authority will be specified by the Central Government via notification in the Official Gazette and its presently in **New Delhi**. Branch offices may be established with prior approval from the Central Government.

Term and Conditions:

1. The Chairperson's term and the process of filling the post shall be as prescribed by rules.
2. The Chairperson's salary, allowances, and other conditions of service will be determined by rules.



THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS AUTHORITY



Standing Committee:

1. The Chairperson shall form a Standing Committee of five members, including a farmers' representative, to advise the Authority on issues such as farmers' rights.

• Section 5: Committees

1. Formation:

The Authority may form committees for efficient functioning.

2. Allowances:

1. Members of the committees are entitled to allowances or fees fixed by the Central Government.



GENERAL FUNCTION OF THE AUTHORITY



Section 8: General Functions

1. Primary Duty:

1. Promote the development of new plant varieties and protect farmers' and breeders' rights.

2. Specific Functions:

1. Registration of extant varieties.
2. Characterization and documentation of registered varieties.
3. Indexing and cataloging of farmers' varieties.
4. Ensuring seed availability for registered varieties.
5. Collecting statistics on plant varieties and contributions to their development.
6. Maintaining the National Register of Plant Varieties.

• **Section 9: Authentication of Orders**

- The Chairperson or an authorized member must authenticate orders and decisions of the Authority.

GENERAL FUNCTIONS OF THE AUTHORITY



- ***Section 10: Delegation of Powers***
- The Authority may delegate powers, except for regulation-making under Section 95, to the Chairperson, members, or officers.
- ***Section 11: Civil Court Powers***
- The Authority or Registrar has the powers of a civil court for:
 - Receiving evidence.
 - Enforcing witness attendance.
 - Compelling document production.
 - Administering oaths.
 - Issuing commissions for witness examination.

PLANT VARIETIES REGISTRY



- **Section 12:**
 - **Establishes Plant Varieties Registry** - The Plant Varieties Registry will be established with its head office at the Authority's headquarters and branch offices as required.
- 1. Registrar-General:**
 1. Appointed by the Authority, the Registrar-General oversees the Registry.
 - 2. Territorial Limits:**
 1. The Authority may define territorial limits for branch offices.
 - 3. Seal:**
 1. The Registry will have an official seal.



PLANT VARIETIES REGISTRY



- **Section 13: National Register of Plant Varieties**

- 1. Contents:**

1. The Register will include details of registered varieties, breeders' rights, and other prescribed particulars.

- 2. Supervision:**

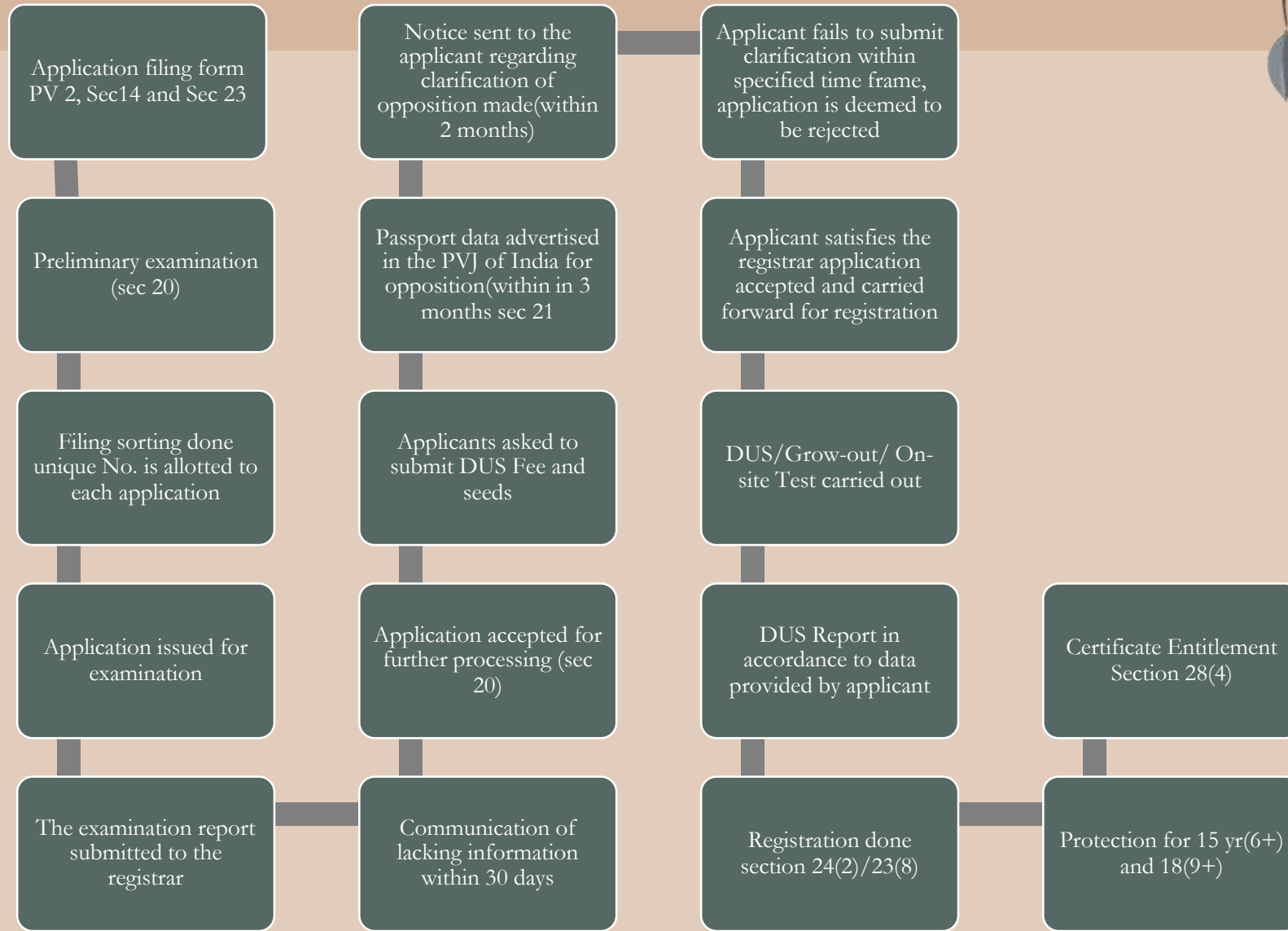
1. The Central Government will supervise and direct the maintenance of the Register.

- 3. Branch Offices:**

1. Copies of the Register will be kept at branch offices for reference.

- This systematic framework ensures the efficient functioning of the Protection of Plant Varieties and Farmers' Rights Authority under the 2001 Act.

REGISTRATION OF PLANT VARIETIES





ELIGIBILITY TO APPLY FOR REGISTRATION

The application for protection under the of section 16 of the Act can be made by any of the following persons :

1. Any person claiming to be the breeder of the variety.
2. Any successor of the breeder of the variety.
3. Any person being the assignee or the breeder of the variety in respect of the right.
4. Any farmer or group of farmers or community of farmers claiming to be breeder of the variety.
5. Any authorized person to apply on the behalf of farmer.
6. Any University or publicly funded agricultural institution claiming to be breeder of the variety.

SIMPLIFIED PROCEDURE FOR FILING FOR APPLICATION UNDER REGISTRATION

Submission of Application under section 14& 15(basically eligibility and essential criteria):

The application must be made to the registrar using Form 1 as per regulation.

It should mention the denomination of the variety and include the following:

1. Complete passport data of the parental lines from which the variety is derived.
2. Details of contributions made by various parties in its development(disclosure of source)

The outcome of the application could be either accepted or rejected or sent back for amendments.

After the first procedure is passed, the second step is regarding the [DUS Test](#)(distinctiveness, uniformity, and stability)

Thirdly, declaration of lawful acquisition of genetic or parental material.

Fourthly, proof of right to succession or assignment(e.g., succession certificate or assignment proof).

Fifth, seeds must be tested as prescribed in the regulations and contribution disclosure by tribal groups as per section 40.

Other mandatory documents

[FORM PV-1](#)

[FORM PV-2](#)(Succession certificate and assignment proof)

REGISTRABLE PLANT VARIETIES IN INDIA

- **New Varieties:** A new variety shall be registered under this Act if it conforms to the criteria of novelty, distinctiveness, uniformity and stability. Varieties which are not sold or otherwise disposed of in India i.e., not protected by any intellectual property rights, earlier than one year before filing outside India, In Case of Trees and Vines, Earlier than six years, or in any other case earlier than four year.
- **Farmer's Varieties:** A variety which has been traditionally cultivated and evolved by the farmers in their fields or is a wild relative or land race of a variety about which farmers possess common knowledge.
- **Extant Varieties :** A variety which is notified under seeds act, 1966 and which there is common Knowledge of a farmer variety and any other variety which is in public domain
- **Essentially Derived Varieties(EDV):** Predominantly derived from other plant variety i.e., retain the essential characteristics that result from the genotype or combination of genotypes of that other varieties and does not exhibit any important (as distinct from cosmetics) feature that differentiate it from that other variety.



REGISTRABLE PLANT VARIETIES IN INDIA

- A variety shall be registered under this act if it fulfils the following criteria:
- **Novelty:** A new variety is consider as novel if, at the date of filing of application for registration for protection, the propagating or harvested material of such variety has not been sold or otherwise disposed of by or with the consent of its breeder or his successor for the purposes of exploitation of such variety in India, earlier than one year; or outside India, in the case of trees and vines six years; or in any other case, earlier than four years before the date of filing such application.
- **Distinctiveness:** A new variety must be clearly distinguishable by at least one essential characteristic from any other variety whose existence is a matter of common knowledge in any country at the time of filing of the application.
- **Uniformity:** A new variety must be sufficiently uniform in its essential characteristics.
- **Stability:** A new variety is consider as stable if its essential characteristics remain unchanged after repeated propagation or, in case of a particular cycle of propagation, at the end of each such cycle.



APPLICATION FOR REGISTRATION OF THE PLANT VARIETIES



- Every Application shall be made in writing and signed by the applicant and delivered to the registrar or the authority at its office and shall be filed in triplicate stated under the section 14 of the act.
- The Applicant must declare that the parental materials acquired for breeding the variety has been lawfully acquired. He must also provide the Complete passport data of the parental lines along with the geographical location in India from where the genetic material has been taken including contribution made by the local communities if any in the evolution of varieties.
- Each application should assign a single and distinct denomination of the variety to which the registration is being sought. There must also be a statement describing all the details of the variety that brings out its characteristics of registering the variety. The applicant shall also make available such quantity of seed as is required for testing to evaluate whether it satisfies the standards specified.
- The authority shall conduct the DUS testing which shall be field and multilocation based for at least two crop season. DUS testing should be done at minimum two location. When DUS Testing fails establish the requirement distinctiveness special test shall be conduct.
- The Sample of seeds or propagates and the parental lines submitted for testing shall be deposited at the National Gene Bank.
- No registration of a variety shall be made under this Act in cases where prevention of commercial exploitation of such variety is necessary to protect public order or public morality or human, animal and plant life and health or to avoid serious prejudice to the environment under the section 29 of the Act.



OBJECTION TO THE REGISTRATION



ADVERTISEMENT: Under Section 21 of the act the registrar on receipt of the application can either accept it, require it to be amended or rejected. On acceptance of the application for registration, The registrar shall advertise and calling for objection for the same The advertisement shall include :

1. Name, Passport Data and source of Parental line or initial Variety used to develop the variety in respect of which an application for registration has been made;
2. Description of the variety bringing out its character profile as specified under the DUS test scheduled.
3. Essential Characteristics conferring distinctiveness to the variety
4. Important agronomic and commercial attributes of the variety
5. Photographs or Drawings, if any of the variety submitted by the applicant
6. Claim if any on the variety.



OBJECTION TO THE REGISTRATION

Any Person can, within three months from the date of the advertisement give in writing a notice of opposition to the registration on the grounds:

1. That the person opposing the application is entitled to the breeders right as against the applicant
2. That the variety is not registrable under this act
3. That the grant of certificate of registration may not be in public interest
4. That the variety may have adverse effect on the environment



OBJECTION TO THE REGISTRATION



- **Notice:** Notice of opposition shall be sent to the applicant within 3 months from the last date of filing of the opposition.
- **Counter affidavit:** The applicant is required to file counter affidavit within 2 months and the copy shall be served to the person giving notice within 30 days of the receipt.
- **Evidence:** All evidence shall be submitted upon which the opponent relies within 1 month from the date of the counter affidavit and the applicant also to submit the evidence on which he relies and the duplicate shall be submitted to the registrar.
- **Decision:** The Registrar shall consider all the grounds on which the application has been opposed and after giving reasons for his decision, by order, uphold or reject the opposition.



REGISTRATION OF ESSENTIALLY DERIVED VARIETY

- An **Essentially Derived Variety (EDV)** stated under section 23 of the act **i.e.**, is a new plant variety that is predominantly derived from an initial protected variety, retaining its essential characteristics while being clearly distinguishable from it.
- As the EDV is derived from a farmer variety, the authorization shall be given only after obtaining consent from the farmers or community of farmers who have made contribution in preservation and development of the variety.
- The authority after conducting the test and procedures as to whether the variety is derived from the initial variety.
- The authority after satisfied that the variety is an essentially derived variety shall register the variety as essentially derived variety.
- The rights of the breeder of a variety contained in section 28 shall apply to the breeder of essentially derived variety:



RIGHT OF REGISTRATION CERTIFICATE

Exclusive Rights: The certificate of registration confers on the breeder or his assignee successor, his agent or licensee an exclusive right to produce, sell, market, distribute, import or export the variety

The act also confers on the breeder to authorize any person to produce, sell, market, distribute or deal with the variety registered under the act.

Duration: The certificate of registration valid for the period of nine years in case of trees and vines and six years in the case of other crops. Further certificate can be renewed for a further period of till 18 years in case of trees and vines and In case of other variety 15 years.

Researcher Rights: As per the Section 30 of the of the act allows researchers to use a registered variety for experimentation or research purposes and permits the use of such varieties as an initial source for creating new varieties.

Benefit Sharing :The claims for benefit sharing are invited any person or group of persons or firm or governmental or non-governmental organisation shall submit its claim of benefit sharing to such variety in the prescribed form within such period, and accompanied with such fees after registration and assessed based on the contribution of genetic material and the market utility of the variety, with determined amounts to be deposited into the National Gene Fund under section 26 of the act.



CANCELLATION, SURRENDER OF REGISTRATION CERTIFICATE



- The breeder of a variety registered under the act can be cancelled, surrender and revoked for failure to observe the condition of registration or for contravention of any provision of the act based on application by aggrieved party.
- **Surrender of Registration:** As per Section 33 of the act, A breeder may voluntarily surrender the certificate of registration by notifying the Registrar in the prescribed manner. Upon receiving the surrender request, the Registrar will notify registered agents and licensees, allowing them to oppose the surrender within a specified period. If no valid opposition is raised, the Registrar may accept the surrender and revoke the registration.
- **Cancellation of Registration:** The Registrar may cancel a certificate of registration upon application by an aggrieved party or on suo moto. Grounds for cancellation include violation of the Act's provisions or failure to comply with registration conditions. The Registrar will notify affected parties and provide an opportunity to be heard before making the final decision.
- **Forfeiture of Registration:** The Authority, with prior approval of the Central Government, may impose an annual fee on breeders, agents, and licensees registered under this Act, based on the benefits or royalties earned from the variety. Failure to pay the fee for two consecutive years, despite notice, will result in forfeiture of protections under the registration certificate stated under section 35 of the act.



REVOCAION OF REGISTRATION CERTIFICATE



- **Revocation of Registration:** As per the Section 34 of the Act, The protection granted to a breeder in respect of a variety shall be not be revoked by the authority unless the breeder is given a reasonable opportunity to file objection and of being heard on the following grounds:
 1. That the grant of the certificate of registration has been based on incorrect information furnished by the applicant;
 2. That the certificate of registration has been granted to a person who is not eligible for protection;
 3. That the breeder did not disclose the information or document as required for the registration
 4. That the breeder did not provide the necessary seeds or propagating material to the person to whom compulsory licence has been issued in respect of which registration certificate has been issued to the breeder;
 5. That the breeder has failed to comply with the direction of the authority and provision of the act.
 6. That the certificate of registration is not in the public interest.

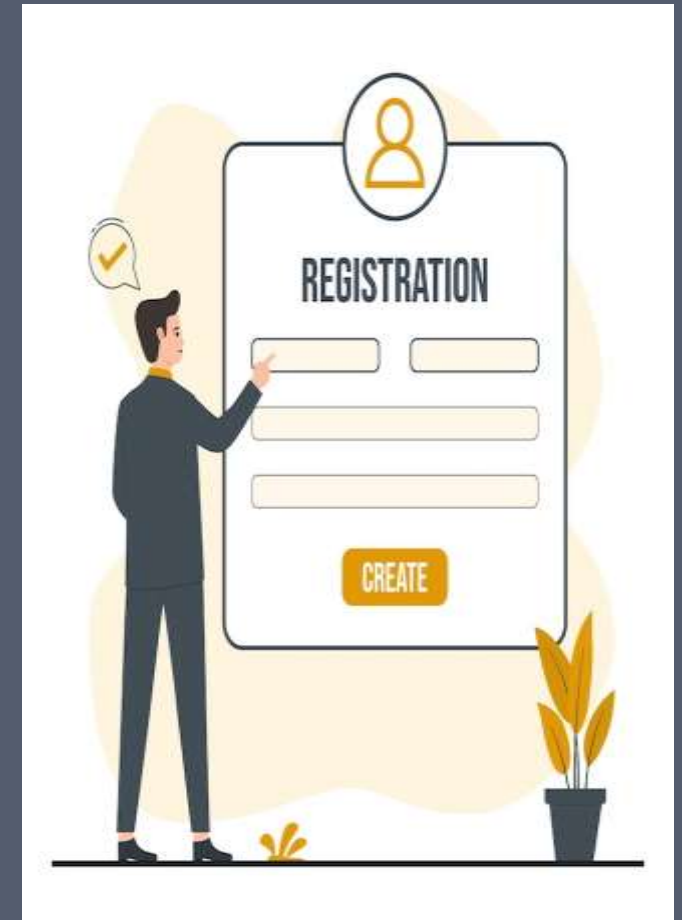


CORRECTION AND ALTERATION OF DENOMINATION OF A REGISTERED VARIETY

The Registrar may correct or update errors in the Register or certificate of registration based on an application by the breeder, agent, or licensee stated under section 37 of the act.

1. By Breeder: The Registrar may correct errors or update entries in the Register, such as the breeder's name, address, or other details. The breeder can request cancellation of a variety's entry, with corresponding changes made to the certificate of registration.

2. By Agent or Licensee: On application by a registered agent or licensee and after notifying the breeder, the Registrar can correct errors or update their name, address, or description in the Register or certificate





FARMER'S RIGHTS

- The Act provides a separate chapter on farmers' rights
- The farmer's rights in this chapter and elsewhere in the Act constitute nine important rights.
- These rights acknowledge the role of farmers in conserving varietal diversity, honor their traditional rights on seeds to promote conservation, their poor economic capability to buy seed for every sowing, their low legal literacy, and their entitlement to an equitable share of benefits arising from new varieties.

FARMERS' RIGHTS ON SEEDS



- The Farmer's right to seeds is a traditional right enjoyed by farmers throughout the history of agriculture.
- This right includes the right to save the seed from one's crop and use the saved seed from sowing, exchanging, sharing, or selling to other farmers. It is fundamental to the conservation role performed by farmers. The process of conservation encompasses the total genetic variability in time and space, including traditional and new varieties; the farmers' right to seeds encompasses the total genetic variability, including protected varieties.
- The PPVFR Act allows this right on seeds to all varieties, including varieties registered under the Act, Section 39(1)(iv).
- This Act also restricts the farmers from selling seeds of a protected variety in packages as per section 18(1)(c).



FARMERS' RIGHT FOR REWARD AND RECOGNITION

- In recognition of the important role farmers have played in the conservation of varietal wealth of crop plants, the PPVFR Act has a provision to reward and recognize individual farmers or farming and tribal communities for such contribution as per section 39(1)(iii).
- According to the Act, a National Gene Fund will be created to facilitate reward and recognition to eligible individual farmers and communities.
- It provided an incentive to encourage conservation undertaken by farming and tribal communities. Farmers conserving traditional varieties and wild species of crop plants are deemed eligible to receive rewards and recognition.

Farmers are *anna dattas*, protect their rights and future, says President

The Hindu Bureau
NEW DELHI

President Droupadi Murmu on Tuesday called for concrete steps to conserve traditional seed varieties and eco-friendly farming practices.

She was inaugurating a global seminar organised here by the International Treaty on Plant Genetic Resources for Food and Agriculture and the Food and Agriculture Organisation on farmers' rights,

Ms. Murmu said farmers were *anna daatas* (providers of food) and they needed to be saluted. She said it was the duty of everyone to protect farmers' rights and future.

Union Agriculture Minister Narendra Singh Tomar, who also addressed the symposium, said the rich agricultural heritage of the country had flourished owing to the efforts



President Droupadi Murmu presenting the Plant Genome Saviour Farmer Recognition, 2020-21 to Parappi Amma, a tribal farmer from Vithura in Kerala, in New Delhi on Tuesday. SHIV KUMAR PUSHPAKAR

of farmers, who had carefully nurtured and developed numerous plant varieties. These varieties were not only a source of livelihood but also a living testimony of the deep connection between nature and culture.

Ms. Murmu said farmers had toiled, developed and

conserved landraces, wild-relatives and traditional varieties of crops, and provided the building blocks for the modern crop breeding programmes and thus ensured food and nutritional security for human beings and livestock alike. The treaty was signed in 2001 to conserve,

use, and manage plant genetic resources for food and agriculture. "My country provides a range of rights to farmers including use, re-use, save, share and sell the unbranded seeds of a registered variety. Besides, farmers can register their own varieties which get protection," she said.

FARMERS RIGHT TO REGISTER TRADITIONAL VARIETIES



- The PPVFR Act allows the registration of traditional or farmers' varieties under section 14.
- Registration of the variety grants PBR on the variety, which allows exclusive legal rights to the PBR-holding farmers to produce and market its seed as per section 28.
- The Act awards farmers PBR on their recognition as breeders. Traditional varieties developed by one or more farmers are eligible for registration.
- Farmers do not need to pay any fee to register their varieties or renew these registrations as per sections 18 and 44.
- Professional breeders and public research institutions must pay Rs.5,000 to 10,000 separately as registration and renewal fees.

FARMERS' RIGHT FOR BENEFIT SHARING



- The Act provides for equitable sharing of the benefit earned from the new variety with farming or tribal communities that had contributed varieties used as parents.
- The benefits share may be disbursed from the National Gene fund to the eligible individual, community or institution. Therefore, for claiming eligible benefit share, the farming communities should have
 - (i) Timely information on the varieties being registered under the act
 - (ii) Timely understanding on the notification on such varieties inviting claims for benefits share, and
 - (iii) capability to understand the disclosed characteristics of the new variety those of parental varieties.



FARMERS' RIGHT TO GET COMPENSATION FOR THE SUFFERED FROM THE REGISTERED VARIETY



- The primary purpose of registration of a plant variety under this Act is to establish exclusive commercial rights on the variety.
- This Act has a provision to check unfair marketing practices by breeders and their seed sellers.
- The Act requires that the seed be sold with a declaration of its agronomic performance and the cultivation conditions ensuring this performance.
- At the time of sale of seed/planting materials, the breeder has to disclose the expected performance of a variety under given conditions.
- If such seed/propagating materials fail to provide such performance under such given conditions, the farmers or group of farmers or organization of farmers may claim compensation in a prescribed manner before the protection of plant variety and farmers' right authority to the concerned party.



FARMERS' RIGHT TO RECEIVE COMPENSATION FOR UNDISCLOSED USE OF TRADITIONAL VARIETIES



- Farmers or communities can receive compensation if a breeder fails to disclose the use of traditional varieties or knowledge in developing a new variety, whether due to ignorance or intentional suppression.
- Third parties, such as NGOs, individuals, or institutions, can file claims for these communities under section 41(1) of the PPVFR Act.
- Verified claims result in compensation being deposited by the PBR holder into the national gene fund, which then disburses the amount to the claimant. Knowledge of plant varieties and breeding techniques can aid in identifying such cases.



FARMERS' RIGHT FOR THE SEEDS OF REGISTERED VARIETIES



- The Act tries to achieve this objective by ensuring adequate availability of seeds of registered varieties to farmers at a reasonable cost. Access to seed by farmers is important for availing the benefits of scientific crop improvement.
- According to the Act, when the PBR-holder does not satisfy this requirement three years after registration of the variety, farmers have the right to take the matter of non-availability of seed, its poor supply, or its high price to the PPVFR-Authority as per section 47.
- On receiving such complaints and on its verification, the PVP Authority may take remedial actions. One of these actions may be the enforcement of compulsory licensing. Compulsory licensing revokes the exclusive right on commercial production and marketing of seed granted to the PBR-holder and transfers this right to third parties determined by the Authority.



FARMERS RIGHT FOR RECEIVING FREE SERVICES



- The poor economic capability of farmers and with a view that this economic weakness shall not be a hurdle for accessing farmers' rights, the PPVFR Act totally exempts farmers from paying any fees as per sections 18 and 44.
- This exemption applies to individuals, groups, or communities of farmers. The exemption includes the fees required to be paid to the Registrar of Plant Varieties for registration of farmers' varieties, for conducting tests on them, for the renewal of registrations, and the fees prescribed for opposition, benefit claims, etc
- This exemption also covers fees on all legal proceedings at the PVPA-Tribunal, the Intellectual Property Appellate Board (IPAB), or any Court of law. This exemption, however, does not include fees on lawyers privately hired by farmers to represent them at the Tribunal or Appellate Board or Courts.



FARMERS RIGHT FOR PROTECTION AGAINST INNOCENT INFRINGEMENT




- All laws have penal provisions stating what constitutes an infringement and what punishment should be awarded to different proven infringements. These aspects of the PPVFR Act are dealt with under Chapter X of the Act.
- Under legal jurisprudence, violation of a law committed out of ignorance is not held as admissible innocence. A safeguard to farmers against innocent infringement is provided in the Act as per section 42.
- According to this, a Court is prevented from prosecution of a farmer on charges of infringement of the Act, if the respondent farmer makes an affirmation that s/he was not aware of the legal provision deemed to have been violated by him or her at the time of such commission. This exceptional provision is provided in the Act in view of the low legal literacy of tradition-bound Indian farmers and to discourage petty legal harassment of farmers from seed companies.
- This highlights the importance of legal literacy to farmers on this Act, not only to prevent infringement proceedings against them but also to create the capability to access the rights provided to them.

Farmer's Rights
(sec.39)

- Entitled to save, use, sow, resow, exchange or sell his farm produce
- Compensation for failure of expected performance of registered variety.
- Protection against innocent infringement.
- Exemption from payment of DUS testing fee.





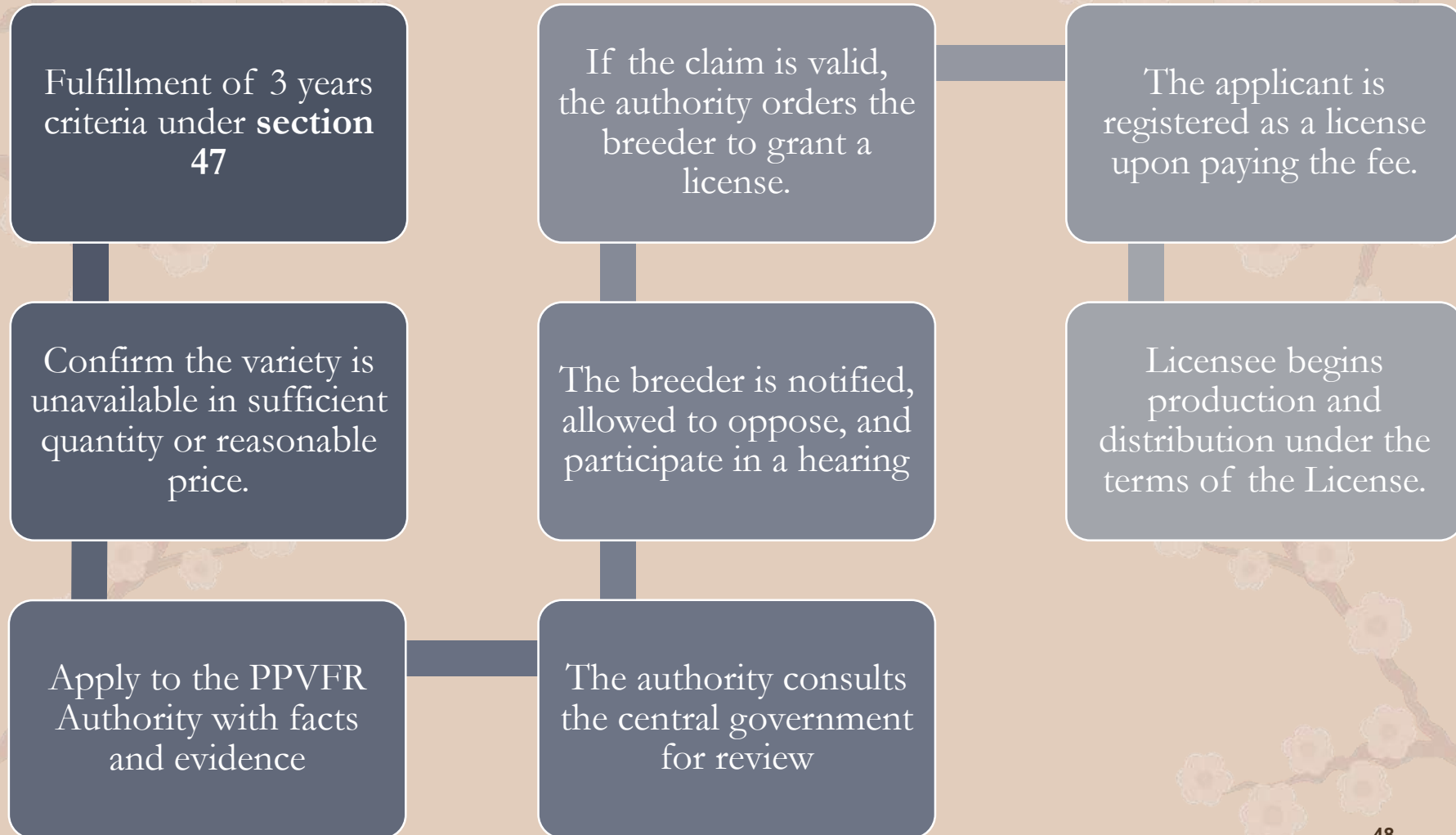
COMPULSORY LICENSE

WHAT IS COMPULSORY LICENSE



- The protection of plant varieties and farmers' rights authority has an obligatory permit from the statute to grant compulsory licensing.
- This grant can only be granted if any objection is raised about the accessibility of the seed of any enrolled assortment to open at a sensible cost.
- The permit may be granted or objected to under **section 47(1)** of the PPVFR Act only if the seeds in question have exceeded the stipulated time limit of three years from the date of issuance of the declaration of registration. This applies specifically to ensure that the production, distribution, and sale of the variety's seeds or other propagating materials meet the necessary criteria.

PROCEDURE FOR COMPULSORY LICENSE



COMPULSORY LICENSE

- There has been always a danger that the owner of the right will abuse the monopoly granted to him. Abuse of the right can be refusing to grant licenses, imposing unreasonable terms on the licensee or restrictive conditions on the use of the patented articles.
- The provision of compulsory license stated under the act to prevent the authorization i.e., given by an authority allowed by law to grant a licence without or against the consent of the title holder for the exploitation of a subject matter protected by a patent.
- **Application for Compulsory License:** As per Section 47 of the act, After the expiry of 3 years from the date of the issuance of the certificate, any person interested may make an application to the Authority for obtaining a compulsory licence. The application can be made on the grounds that the reasonable requirements of the public for seed or other propagating materials of the variety have not been satisfied or that the seed or other propagating material of the variety is not available to the public at a reasonable price.
- **Duration:** As per the Section 50 of the Act, The compulsory licence shall be determined by the Authority, but shall not exceed the total remaining period of the protection of the variety.



REVOCAION AND MODIFICATION OF COMPULSORY LICENCE



- **Revocation:** Under Section 52 of the Act, The Authority may its own motion or on an application from an aggrieved person, if it is satisfied that the compulsory licence has violated any terms or condition of the licence or it is not appropriate in the public interest after giving the licence an opportunity to file an opposition and opportunity of being heard, make order to revoke the licence.
- **Modification:** As per the section 53 of the act The Authority may, on its own motion or on application from licensee of a compulsory licence, after providing the opportunity of being heard to the breeder of the variety registered under this Act relating to such compulsory licence, if it considers, in public interest, so to do, modify, by order, such terms and conditions as it thinks fit and send a copy of such order to the Registrar to correct the entries and Register according to such modification and the Registrar shall ensure such corrections to be made accordingly.



ELIGIBILITY TO GRANT COMPULSORY LICENCE



- The Authority shall grant a compulsory licence after consultation with the Central Government and after giving an opportunity to the breeder of such variety to file an opposition within one month from the receipt of the notice of opposition and after hearing the parties may order that the breeder shall grant licence to the applicant on such terms and conditions as it deems fit.
- The Authority shall also ensure that the compulsory licensee of such variety possesses the adequate means to provide to the farmers, the seeds or other propagating material of such variety at a reasonable market price.
 1. The authority while determining whether the reasonable requirements of the public is satisfied or not:
 2. the Authority shall take into account the nature of the variety,
 3. the time which has elapsed since the grant of the certificate of registration of the variety, price of the seed of the variety;
 4. The measures taken by the breeder or any registered licensee of the variety to meet the requirements of the public and the capacity, ability and
 5. Technical competence of the applicant to produce and market the variety to meet the requirement of the public.

APPEALS AS PER SECTION 57 OF THE ACT



- All the Appeals from the orders of Authority are made to the High Court as per section 57 of the Act.
- **What all orders are appealable in the High Court**
 - Decisions related to registration of a variety.
 - Decisions on agent/licensee registration.
 - Orders about benefit-sharing claims
 - Decisions on revocation/modifications of compulsory license.
 - Orders about compensation payments.
- **How to appeal?**
- File a written petition in the prescribed format within the prescribed time.



SECTION 57: ORDERS OF HIGH COURT



- The High Court hears both parties and passes suitable orders.
- Errors in orders can be corrected within 30 days if requested by either party.
- Appeals are to be resolved within one year(not a mandate)
- A copy of the order is a mandate to be sent to the registrar.



SUIT FOR INFRINGEMENT AND RELIEFS



- **Jurisdiction:** Under Section 65 of the act, Suits for infringement can only be filed in a District Court where the cause of action arises
- **Relief for Infringement:** Under Section 66, Courts may grant injunctions, damages, or a share of profits. Injunctions may include ex parte or interlocutory orders or any order for the same i.e., Discovery of Document, Preservation of infringing variety or evidence, Attachment of defendant property for recovery of damages or costs.
- **Opinion of Scientific Adviser:** As per the Section 66, Courts may appoint an independent scientific adviser to assist in forming opinions on factual or scientific issues.
- **Decision:** Court shall pass the Judgement in accordance with the provision of the act.



OFFENCES, PENALTIES AND PROCEDURE



1. Prohibition on Applying Denomination of a Registered Variety (Section 68)

- Only the breeder, registered licensee, or agent of a registered variety uses its denomination as prescribed.
- The denomination is considered applied to a variety when used directly on the variety, its packaging, or associated documents in a manner that may mislead others into believing the variety is identified by that denomination or using the denomination in commercial documents such as advertisements, invoices, or catalogues, where the variety is supplied based on the reference.

2. Falsely Applying Denomination of a Registered Variety (Section 69)

- Any unauthorized use of a registered variety's denomination or a deceptively similar denomination is deemed false.
- The burden of proving the breeder's assent lies on the accused.

3. Penalty for Applying False Denomination (Section 70)

- **Imprisonment:** Minimum of 3 months, extendable up to 2 years.
- **Fine:** Minimum ₹50,000, extendable up to ₹5,00,000.



OFFENCES, PENALTIES AND PROCEDURE



4. Penalty for Selling Varieties with False Denominations (Section 71)

- Sale, possession, or exposure of falsely denominated varieties incurs similar penalties unless the accused proves due diligence and lack of intent to commit the offense.
 - **Imprisonment:** Minimum 6 months, extendable up to 2 years.
 - **Fine:** ₹50,000 to ₹5,00,000/-

5. Penalty for Falsely Representing a Variety as Registered (Section 72)

- Misrepresentation of an unregistered variety as registered incurs:
 - **Imprisonment:** Minimum 6 months, extendable up to 3 years.
 - **Fine:** ₹1,00,000 to ₹5,00,000.

6. Penalty for Repeat Offence (Section 73)

- **Imprisonment:** Minimum 1 year, extendable up to 3 years.
- **Fine:** ₹2,00,000 to ₹20,00,000.

OFFENCES, PENALTIES AND PROCEDURE



7. Exemptions from Offences (Sections 74 & 75)

- **Section 74:** Acts permissible under this Act do not constitute offences.
- **Section 75:** Persons acting in good faith during the ordinary course of business and having taken reasonable precautions shall be acquitted.

8. Pleading Invalidity of Registration (Section 76)

- If the accused claims the registration of a variety is invalid court proceedings may be adjourned for up to three months, allowing the accused to apply for rectification.
- If no rectification application is filed then, court proceeds as though the registration is valid.

9. Offences by Companies (Section 77)

- When an offence is committed by a company:
 - Both the company and individuals responsible are liable.
 - **Exemption:** Individuals can prove lack of knowledge or due diligence to prevent the offence.
- If committed with consent or neglect of a company officer (e.g., director or manager), such officer shall also be liable.

OTHER PROVISIONS OF THE ACT



- **Section 78: Protection of Security of India**
- **Confidentiality Measures:**
 - The Authority or Registrar is prohibited from disclosing any information related to the registration of a variety if such disclosure is deemed prejudicial to India's security interests.
- **Cancellation of Registration:**
 - The Central Government holds the power to cancel the registration of specific plant varieties through official notifications if it's in the interest of national security.
- **Definition of "Security of India":**
 - Actions necessary for national security, especially those related to the use of registered plant varieties for war, military establishments, or emergencies in international relations.

MISCELLANEOUS (CONTD.)



- **Section 79: Implied Warranty on Sale of Registered Variety**
- **Seller's Warranty:**
 - When selling a registered plant variety or its propagating material, the seller implicitly guarantees the authenticity of its denomination, unless explicitly stated otherwise in writing at the time of sale.
- **Section 80: Death of Party to a Proceeding**
- **Substitution in Proceedings:**
 - If a party involved in proceedings under the Act (excluding court proceedings) passes away, the Authority or Registrar can substitute the deceased's successor upon satisfactory proof.
 - If the deceased's interests are adequately represented by surviving parties, the proceedings may continue without substitution.

MISELLANEOUS (CONTD.)



- **Section 81: Right of Registered Agent and Licensee to Institute Suit**
- **Legal Proceedings by Representatives:**
 - Registered agents or licensees, when authorized by the breeder, can initiate legal proceedings concerning the registered variety on behalf of the breeder.
- **Section 82: Evidence of Entry in Register**
- **Admissibility of Certified Copies:**
 - Certified copies of entries in the Register or documents issued under the Act, bearing the Authority's or Registrar's seal, are admissible as evidence in all courts without further proof.
- **Section 83: Non-compellability to Produce Register**
- **Protection from Compulsion:**
 - The Authority, Registrar, or their officers cannot be compelled to produce the Register or related documents in legal proceedings, provided certified copies can be furnished, unless a court orders otherwise for special reasons.

MISELLANEOUS (CONTD.)



- **Section 84: Public Inspection of Documents**
- **Access Rights:**
 - Individuals can apply to the Authority or Registrar, pay the prescribed fee, and obtain certified copies or inspect entries in the Register or other documents related to proceedings under the Act.
- **Section 85: Report of Authority to be Placed Before Parliament**
- **Annual Reporting:**
 - The Central Government must present an annual report on the Authority's performance under the Act to both Houses of Parliament.
- **Section 86: Government to be Bound**
- **Applicability to Government:**
 - The provisions of the Act are binding on the Government, ensuring compliance with its stipulations.

MISELLANEOUS (CONTRD.)



- **Section 87: Proceedings Before Authority or Registrar**
- **Judicial Status:**
 - Proceedings related to the registration of varieties, agents, licenses, or compulsory licensing before the Authority or Registrar are deemed judicial proceedings.
 - The Authority or Registrar is considered a civil court for specific purposes under the Indian Penal Code and the Code of Criminal Procedure.
- **Section 88: Protection of Action Taken in Good Faith**
- **Immunity Provisions:**
 - No legal action shall lie against the Central Government, the Authority's Chairperson, members, Registrar, or any person acting under them for actions done in good faith under the Act or related rules and regulations.



MISCELLANEOUS (CONTD.)



- **Section 89: Bar of Jurisdiction**

Exclusion of Civil Courts:

- Civil courts are barred from entertaining matters that the Authority or Registrar is empowered to determine under the Act.

- **Section 90: Members and Staff of Authority as Public Servants**

Designation as Public Servants:

- The Chairperson, members, officers, and other employees of the Authority, as well as the Registrar-General and their staff, are deemed public servants under Section 21 of the Indian Penal Code.

- **Section 91: Exemption from Tax on Wealth and Income**

Tax Exemptions:

- The Authority is exempt from paying wealth-tax, income-tax, or any other tax on its wealth, income, profits, or gains, notwithstanding existing tax laws.

- **Section 92: Act to Have Overriding Effect**

Supremacy of the Act:

- The provisions of this Act prevail over any inconsistent laws or instruments in force, ensuring its primacy in matters of plant variety protection and farmers' rights.

THANK YOU



Khurana & Khurana team

