

Pbrs law. 3. pbrs
provide legal rights



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PBRs are specialized patent like system for cultivated plants. PBRs are one of the most recent forms of Intellectual Property Law. The policy basis for PBR is the same as for patent, design and copyright laws. Features of PBR 1.

PBRs are specialized plant like system for cultivated plant species. 2. PBRs constitute one of the recent forms of Intellectual Property Law. 3. PBRs provide legal rights to a plant breeder to get benefit of his/her innovation or variety. 4.

PBRs differ from patents in the sense that the former allow farmers privilege and research exemption. Farmers' privilege is the right to hold material as seed source for subsequent seasons. The research exemption refers to the right to use protected material as the basis to develop a new variety or other research use. Patents donot provide such exemptions. Research exemption is also called breeders' privilege. 5.

PBRs protect the variety but not the standard breeding procedures that are used for development of a variety. 6. PBRs are generally considered to provide less protection than patents. 7. Laws related to PBRs were first framed in 1961 by the union for the protection of new plant varieties (UPOV) which were further revised in 1972, 1978 and 1991 UPOV conventions were held in Geneva. Main Features of UPOV: The first UPOV convention was held and signed in Paris in 1961, but it came into force in 1968 with its headquarters at Geneva.

Since then many changes have taken place in UPOV, because it was revised in 1972, 1978 and 1991. The 1978 Act came into force in 1981 and the Act 1991 has not yet come into force. The main features of UPOV are briefly

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presented below: 1. Material to be protected: A protection right can be granted for varieties of all botanical genera and species. In other words, all new varieties, of cultivated species are protected under. Plant Breeders' Rights (PBR).

The new variety must have a designation (name) as per the rules of International code of nomenclature. 2. Rights provided: UPOV provides legal rights to the original plant breeder or owner of a variety for commercial production, marketing and export of his variety. Thus original breeder gets benefit of his intellectual property or his invention. 3. Basic Requirements: There are four basic requirements for protection of a variety under PBR.

These are : (1) novelty, (2) distinctness, (3) uniformity and (4) stability. The last three criteria were given by UPOV 1978 convention and the first criteria i. e., novelty was added in UPOV convention 1991.

Novelty refers to newness of a variety'. The variety should be new one and it should not have been commercially cultivated for more than one year before granting protection under PBR. The second criteria is distinctness. The new variety must be distinguishable in one or more morphological, quality or other characters from previously available varieties. Thirdly, the variety should be uniform (homogeneous).

In other words the variety should be pure and look uniform. Lastly, the variety must give stable performance in different generations. These four attributes are determined by grow out test. 4. Power of Authorization: The holder of PBR has power of authorization. He can authorise any other person for commercial production, marketing, export and import of his variety.

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Prior authorization of a breeder (owner) of a variety is required for commercial production, marketing, export and import of his variety. The use of a protected variety for further research does not require authorization as per UPOV 1978 Act. However, the use in research requires written permission as per UPOV Act 1991. 5. Farmers' Rights: It refers to legal rights that are provided to farmers to save, use, exchange, share or sell his farm produce of a variety. Here the sale is restricted to non-commercial sale.

The 1978 Act is beneficial, because it protects farmers' rights. According to 1978 Act, farmers can use, reuse their produce as seed and have the right to dispose off their farm produces. However, 1991 Act has curtailed farmers' rights. Farmers' rights is also referred to as farmers' privilege.

6. Breeders' Privilege: It refers to legal rights that are provided to plant breeders to use protected plant material for further research. Breeders' privilege is also known as Research Exemption or Breeders' Exemption. The UPOV Act 1978 provides Breeders' Privilege. However, the Act 1991 has curtailed Breeders' Privilege to use the material of a protected variety for further research.

7. Period of Protection: The period of protection varies with plant species. For field crops, the minimum period of protection is 15 years as per 1978 Act and 20 years as per UPOV Act 1991.

For forest trees, vines, fruit trees, ornamental trees and shrubs, the period of protection is 18 years as per UPOV Act 1978 and 25 years as per UPOV Act 1991. The UPOV Act 1991 is pro Plant Breeders. Advantages of PBR: Plant Breeders' Rights have several advantages.

Some important advantages of PBRs are briefly presented below: 1. Incentive to breeders 2. Fast development of seed industry 3.

Improvement in quality 4. Procurement of good material 5. Enrichment of genetic resources Disadvantages of PBR: There are some disadvantages of PBR which are briefly presented below: 1. Exploitation 2. Encouragement of unhealthy practices 3.

Increase in cost of seed 4. Reduction in genetic diversity 5. Ban on use of own seed