



UPOV



MAFF
Ministry of Agriculture,
Forestry and Fisheries
農林水産省



**Seminar on Awareness Raising on the UPOV System of Plant Variety Protection
Organized by DAR under MOALI, Myanmar
In cooperation with UPOV , USPTO and MAFF Japan**

Intensive Awareness Raising On PVP Law and Related Application Procedure



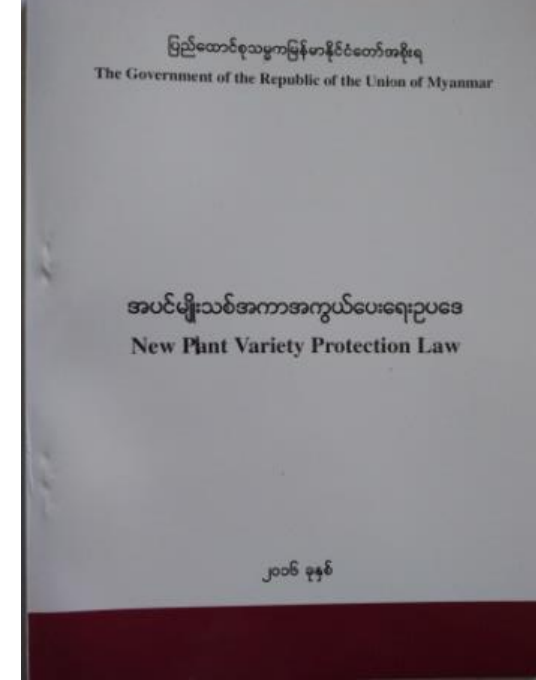
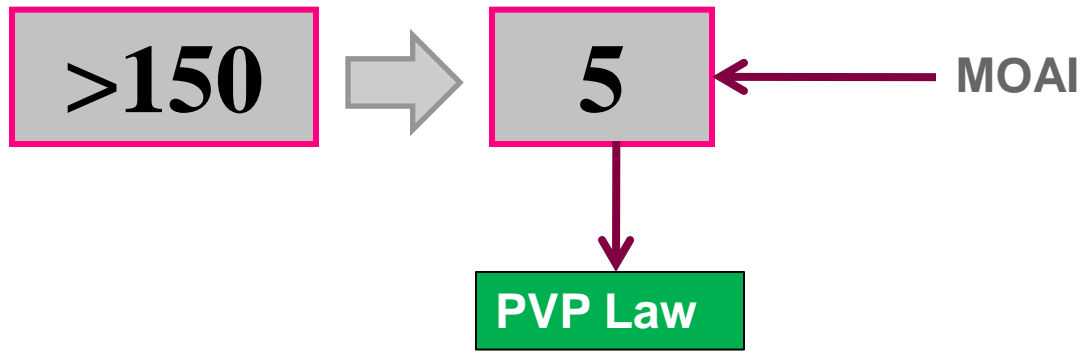
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Presentation Outlines

- **Brief Explanation on Myanmar New Plant Variety Protection**
- **Application procedure (draft) to get BPR right**





The Pyidaungsu Hluttaw (Law no. 15) enacts the PVP Law.

- **Enacted (20.1.2016)**
- **Enforced (20.1.2017)**
- **Trying to amend in line with UPOV 1991 act**



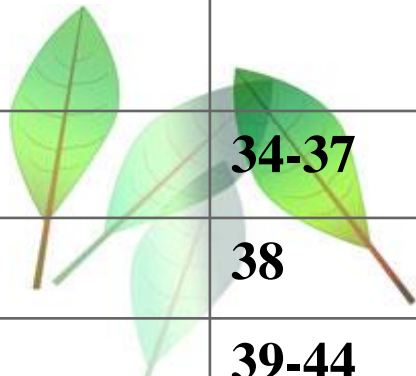
New Plant Variety Protection Law

- **Chapters (10)**
- **Articles (44)**



New Plant Variety Protection Law

<u>Chapters</u>	<u>Subjects</u>	<u>Articles</u>
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Objectives of PVP Law

- **to protect the right of the plant breeders**
- **to develop plant breeding activities**
- **to improve local and foreign investment in the plant breeding activity**
- **to assist the development of the agricultural sector by breeding of new plant varieties**



The main contents in PVP law



The plants to be protected by Myanmar PVP law

- **“Plant”** means any plant in the plant kingdom other than micro-organisms;



Some Definitions of PVP law

“Plant Variety” means a plant variety of specific character and feature in the lowest level of botanical taxon;

“New Plant Variety” means a plant variety which expresses a clearly variance at least one character from the existing plant variety, reveals uniformity in characters when it is cultivated and there is no change in character through propagation;

“Plant Breeder” means a person who bred or discovered a new plant variety or a plant variety or an employer who assigns the duty to a plant breeder with charge or a person who is being legally delegated to perform the duty of a plant breeder;



Some Definitions of PVP law

“Right of a New Plant Variety Protection” means a right to protect a new plant variety produced by a plant breeder in carrying out the matters in Section 23 of this Law with the permission of that breeder;

“Plant Breeder’s Right” means a right to be enjoyed for a protected new plant variety by a plant breeder if the matters in Section 23 of this Law are carried out;

“Recognition Certificate” means a certificate issued under this Law to a plant breeder for allowing to protect a new plant variety;



The essential requirements to grant as New Plant Variety

The breeder's right shall be granted where the proposed variety for granting of breeder's right is completed with

- ❖ (i) new**
- ❖ (ii) distinct**
- ❖ (iii) uniform**
- ❖ (iv) stable and**
- ❖ (V) appropriate denomination according to PVP rules and regulation**



- **Novelty**

seeds of such variety or other parts of plant which can be propagated shall not be sold for commercial cultivation and other purpose of exploitation earlier than one year within Myanmar, earlier than four years in other foreign countries and earlier than six years in case of trees and vines;

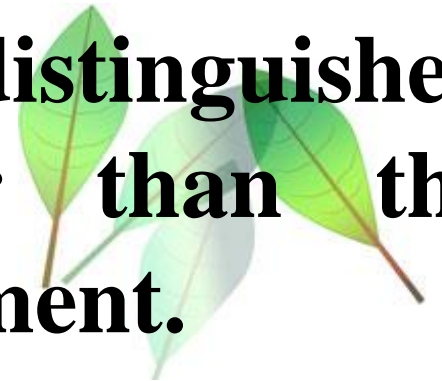


➤ Distinctness

A plant variety applied as a new plant variety shall have a distinguished character distinct from any other commonly accepted plant variety.

➤ Uniformity

A plant variety applied as a new plant variety shall express uniform remain distinguished characters in cultivating other than the variances occurred by the environment.



➤ Stability

A plant variety applied as a new plant variety shall express stably its particular features in repeated propagation.

➤ Denomination

A new plant variety shall be named in accord with the provisions contained in the rules.



A person who can apply for the Grant of the Breeder's Right

- **This Law shall be applied to grant the plant breeder right to**
 - (a) national plant breeders;**
 - (b) plant breeders who are foreigners permanently reside within territory of Myanmar and their organizations;**
 - (c) all organizations and individuals of new plant breeding form foreign countries which have been entered into an agreement on the protection of a new plant variety.**



Scope of the Breeder's Right

The following acts in respect of the propagating material of the protected variety shall require the authorization of the breeder:

- **(i) production or reproduction (multiplication)**
- **(ii) conditioning for the purpose of propagation,**
- **(iii) offering for sale,**
- **(iv) selling or other marketing,**
- **(v) exporting,**
- **(vi) importing,**
- **(vii) stocking for any of the purposes mentioned in (i) to (vi), above.**



Provisional right of a new plant variety

- **protection and cancellation of it under the following conditions:**
 - **(a) granting entitlement of the provisional right of protection in order to exploit such new variety for commercial purposes during the testing period after confirming the application of the right of a new plant variety protection;**
 - **(b) cancellation of the provisional right of protection if the application of the right of protection is invalidated during the period of the provisional right of protection**



Exceptions to the Breeder's Right

The breeder's right shall not extend in the following conditions:

- **acts done privately and for non-commercial purposes,**
- **acts done for experimental purposes and**
- **exchange of varieties between farmers according to the permitted amount in the rules;**
- **acts done for the purpose of breeding other varieties, and, except where the provisions of some Article in respect of such other varieties.**



Exhaustion of the Breeder's Right

The Breeder's Right shall not extend to acts concerning any material of the protected variety such that;

- **Essentially Derive Variety**
- **The variety which can't be distinguish easily from protected variety accordance with Article 11,12&13.**
- **The variety which can be produced if it is need the protected variety repeat.**



Duration of the Breeder's Right

- The breeder's right shall be granted for a period of **20 years** from the date of the grant of the breeder's right. For trees and vines, the said period shall be **25 years** from the said date.

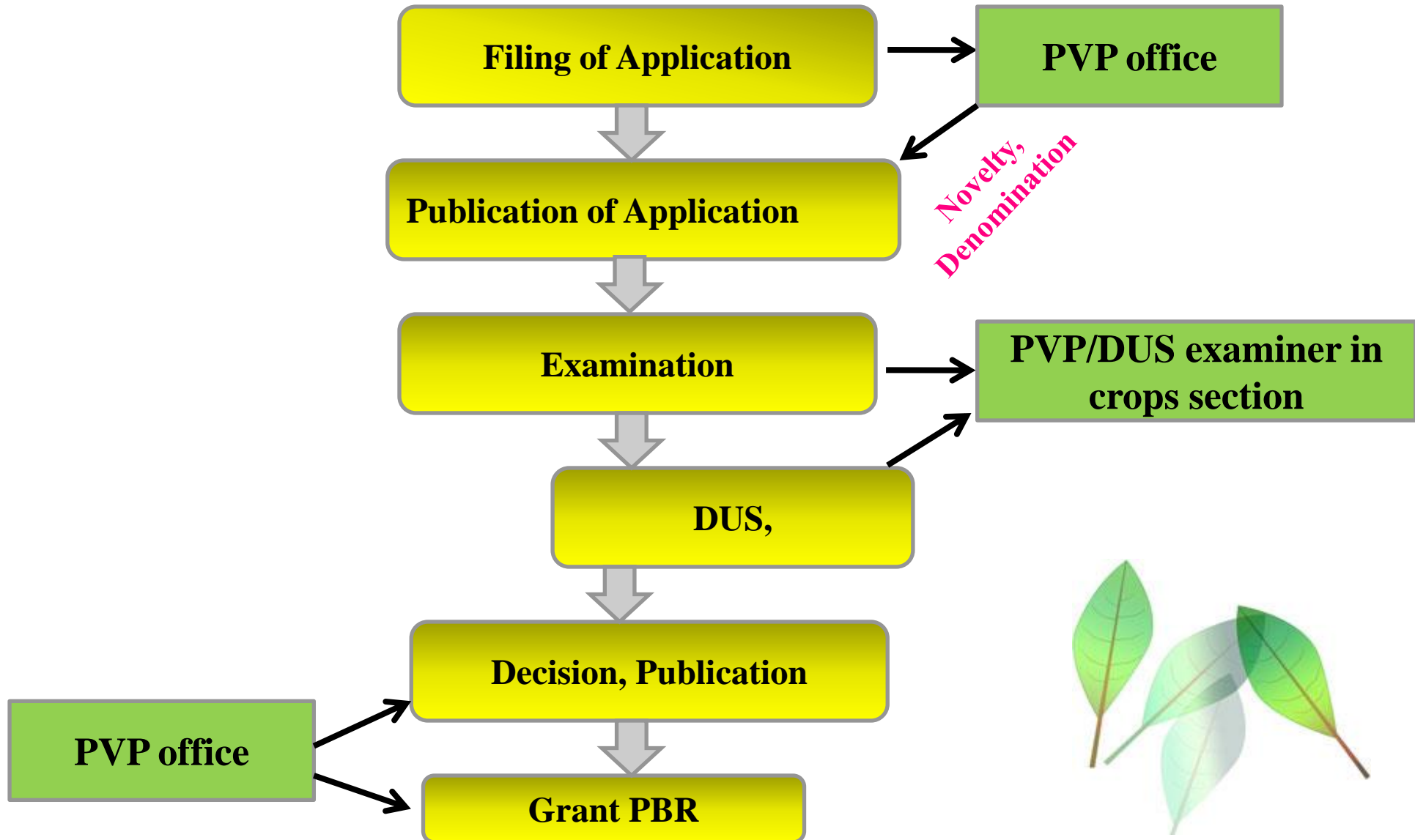


Offences and Penalties

- minimum of 6 months to a maximum of 3 years or with a fine from a minimum of 1 million kyats to maximum of 5 million kyats or with both.



The draft Procedure for the application of new variety to get Breeder Right



Seed Law's Objectives

- **to assist the development of agricultural sector of the State by cultivating and producing crops using pure seed;**
- **to enable to carry out the seed business commercially and to carry out such business systematically;**
- **to encourage for enabling participation in seed production and carrying out seed research of the Government departments, organizations and individuals;**
- **to enable the Government departments, organizations, international organizations, internal and external organization and individuals to co-operate for the development of seed business.**



Similarity of PVP Law and Seed Law

- **To assist the well running of the National Seed Industry in healthy and expanding**



PVP Law

Seed Law

➤ To grant the plant breeder's right to protect the new improved variety

To make the produced seed and planting materials are true to type and up to certain level of quality

➤ Under PVP Law, PVP system it should have DUS examiners and stations to run PVP system well.

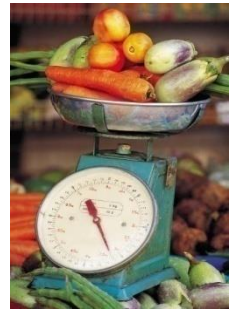
Under seed Law, it should have Seed Inspector and Seed Lab to run seed business well.

➤ PVP making sure breeders get sufficient fund by collecting royalty to creating more and more superior variety (seed and planting material) for the good sake of agriculture industry.

Seed law is to making sure consumers obtain good quality of seed (either common variety or new variety)

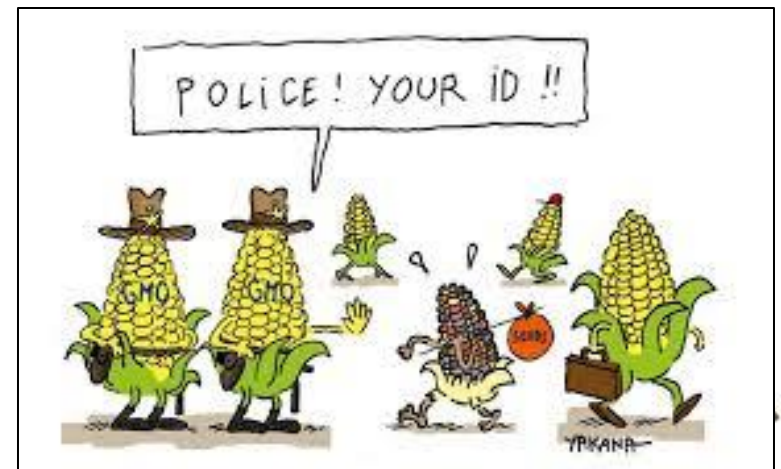
➤ Under PVP, plant breeder's right is given and with the right the breeding company or individual breeder obtains the special right to do the reproduction, conditioning, marketing, import, export and stocking of the seed and planting material. Permission is needed to do so by other interested parties

Under seed law, who can get seed business commercially.



THANK YOU

PVP FOR DEVELOPMENT OF NATIONAL SEED INDUSTRY OF MYANMAR.



Source: Internet

DISTINCTNESS

Apple: Fruit color



UNIFORMITY

Wheat: (Self-pollinated)

