

種苗法の一部を改正する法律の概要

背景

- 気候変動等による農業生産への悪影響が顕在化する中、高温耐性・耐病性、多収性等の形質を有する品種を育成することが急務である一方、**日本の新品種育成・品種登録件数は減少傾向**。
- また、我が国の優良品種は海外でも人気。育成者権者の許諾を得ない海外流出が続いている中で、**育成者権が付与される前の出願品種の流出や種苗の海外持出制限の実効性の強化**といった課題も明らかになってきた。
- このため、**育成者権の保護を強化**して、品種育成者が適切なメリットを得られるようにすることが必要。
(種苗法改正による育成者権の強化に加えて、重要品種の育成及びその種苗の生産の振興に関する法律により高温耐性・耐病性、多収性等の形質を有する新品種育成等を推進)

法律の概要

1 育成者権の存続期間の延長 (第19条第2項)

新品種育成において高温耐性と多収性など複数の形質を付与するには高度な技術と労力を要するようになっており、また、優良品種を用いた産地形成（種苗増殖とコスト化に加えて、生産技術の確立・普及）に長期間を要する実態を踏まえて、**育成者権の存続期間（現行25年、永年性植物は30年）を10年延長**する（UPOV条約では20年以上と規定、加盟国の最長は30年（永年性植物は35年））。

2 植物新品種の流出防止対策の強化

(1) 品種登録出願中の保護 (第14条の2)

品種登録において出願から登録までには栽培試験等により数年間を要し、その出願期間中（育成者権の保護が無い期間）に種苗が海外に流出している実態を踏まえて、**出願品種の種苗の輸出の差止めを行うことができる**こととする。

(2) 種苗の輸出目的の保管の制限 (第21条第2項、第21条の2第1項)

育成者権者の許諾無しでの種苗等の海外持出しの制限（輸出先国の指定）の実効性を高めるため、種苗等の海外持出し（輸出）の前段階である**海外持出し（輸出）目的での保管**（例えば輸出向けの倉庫での保管）**にも育成者権の効力が及ぶ**こととする（育成者権の消尽の例外的追加）。

(3) 育成者権侵害に対する訴訟上の救済の強化 (第34条、第35条の3)

- ① **育成者権者の損害額（許諾料相当額）の算定の際に、侵害があったことを前提として通常の許諾料相当額よりも高い額とすることができる**こととする。
- ② 登録品種の名称で販売された種苗について、訴訟上、**実物の確認を要せずに当該名称の品種であると推定**する規定を創設する（立証責任の一部を育成者権者から侵害者に転換）。

(4) 外国からの登録品種の種苗等の逆輸入の制限 (第21条第2項)

育成者権者等が国外で登録品種である種苗等を譲渡した場合において、育成者権が消尽せず、**当該種苗等の我が国での利用（外国からの輸入を含む。）に育成者権の効力が及ぶことを明確化**する。

(5) 種苗の貸渡し（リース）に関する保護の強化 (第2条第5項)

育成者権の効力が及ぶ**範囲に種苗の貸渡し（リース）を追加**する。

（育成者権者が種苗の所有権を保持した上で種苗の貸渡し（リース）を行う場合に、当該リース行為及び対象の種苗に育成者権の効力が及ぶこととなり、保護を強化）

3 その他 (第15条の2、第37条の2、第75条)

- ① 早期に実用化する必要性が高い出願品種について優先して品種登録出願の審査をできることとする。
- ② 特許法に倣い、紛争の解決のために裁判所が広く一般から意見を募集できる制度を創設する。
- ③ 登録品種の名称使用義務違反に係る過料を引き上げる（現行10万円を20万円に引き上げ）。

施行期日

令和8年12月1日から施行する。ただし、1及び2（4）については、公布の日（令和8年7月24日）から施行する。

Outline of the Act Partially Amending the Plant Variety Protection and Seed Act

Background

- As the negative effects of climate change, etc. on agricultural production become more and more evident, there is an urgent need to breed new high-yielding varieties that are resistant to heat and diseases, etc. However, **the numbers of newly bred plant varieties and registered plant varieties in Japan have been declining.**
 - High-quality varieties bred in Japan are well-liked overseas too. There have been recurring instances of varieties being taken overseas without the consent of the holders of the breeder's rights, highlighting the **issue of applied-for varieties being taken overseas before the breeder's rights are granted and the need to impose more effective restrictions on taking propagating materials overseas.**
 - To that end, it is necessary to **strengthen the protection of the breeder's rights** and ensure that the holders of the breeder's rights receive the benefits they are entitled to.
- (In addition to expanding the breeder's rights as prescribed in the amended Plant Variety Protection and Seed Act, it is necessary to promote breeding of high-yielding new varieties, etc. that are resistant to heat and diseases, etc. as prescribed in the Act on the Promotion of Breeding and Producing Propagating Materials of Important Varieties.)

Outline of the Act

1 Extending the Duration of the Breeder's Rights (Article 19, paragraph (2))

Breeding new varieties that combine various qualities such as resistance to heat and high-yielding ability requires advanced skill and labor, and building a production area using high-quality varieties is a time-consuming process (involving cultivating and maturation of propagating materials, as well as establishing and disseminating production technologies). Based on these factors, the **duration of the breeder's rights is to be extended by 10 years (from the current 25 years and, for perennial plants, 30 years)** (The UPOV Convention prescribes a duration of 20 years or more. Among current UPOV member states, the longest duration is 30 years (35 years for perennial plants).)

2 Boosting Measures for Prevention of Unauthorized Exports of New Plant Varieties

(1) Protections During the Processing of an Application for Variety Registration (Article 14-2)

The process from the time when a registration application is filed to the time when a variety is registered takes several years, since it involves growing tests, etc. Due to the risk of propagating materials being taken overseas while the application is being processed (during the time when the breeder's rights are not being protected), it is **possible to place an injunction on exporting propagating materials of an applied-for variety.**

(2) Restrictions on Stocking of Propagating Materials for the Purpose of Exporting

(Article 21, paragraph (2), Article 21-2, paragraph (1))

To impose more effective restrictions on taking propagating materials, etc. overseas without the consent of the holder of the breeder's rights (restrictions involving designation of the destination country), the effect of the breeder's rights is to be expanded to the stocking of propagating materials, etc. for the purpose of taking them overseas (exporting) (for example, stocking in a warehouse for the purpose of exporting), a phase which precedes the act of taking propagating materials, etc. overseas (exporting) (the extension adding exceptions to the exhaustion of breeder's rights).

(3) Enhancing Remedies in Actions Against Breeder's Right Infringements (Article 34, Article 35-3)

- (i) **When the compensation amount for a holder of breeder's rights is calculated (an amount equivalent to royalties), it is possible to set an amount higher than the amount equivalent to royalties, based on the assumption that there has been an infringement.**
- (ii) For propagating materials sold under the names of registered varieties, provisions are established to allow the **varieties to be assumed to correspond to those names without having to verify that by inspecting the actual seeds.**

(4) Restrictions on Reimporting Propagating Materials of Registered Varieties (Article 21, paragraph (2))

The amendment clarifies that, if the holder of breeder's rights, etc. transfers, in a foreign country, the propagating materials, etc. of a registered variety, those breeder's rights are not exhausted and **their effect is expanded to the use of those propagating materials, etc. in Japan (including to imports).**

(5) Strengthening Protections Related to Leasing Propagating Materials (Article 2, paragraph (5))

Leasing of propagating materials are to be added to the scope of the breeder's rights.

(Protections are to be strengthened for when a holder of the breeder's rights that has acquired ownership of a propagating material leases that propagating material, expanding the effect of the breeder's rights to the act of leasing the propagating material and the propagating material itself.)

3 Other (Article 15-2, Article 37 37-2, Article 75)

- (i) When processing variety registration applications, it is possible to prioritize the applied-for varieties which are urgently required to be put to practical use early.
- (ii) Following the provisions of the Patent Act, a system is established to enable the courts to gather opinions from the general public to resolve disputes.
- (iii) Civil fines are raised for violations of the obligation to use the names of registered varieties (from the current 100,000 yen to 200,000 yen).

Effective Date

The amendment comes into effect on December 1, 2026. However, the provisions related to 1 and 2 (4) come into effect on the day of promulgation (July 24, 2026).