

Plant Varieties Protection (Amendment) Bill

Bill No. 9/2014.

Read the first time on 17th February 2014.

A BILL

i n t i t u l e d

An Act to amend the Plant Varieties Protection Act (Chapter 232A of the 2006 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Plant Varieties Protection (Amendment) Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Plant Varieties Protection Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately after the definition of “denomination”, the following definition:

““Examiner” means any person, organisation or entity appointed by the Registrar for the purpose of referring any question or matter relating to a grant of protection;” and

(b) by deleting the definition of “prescribed examination authority”.

Repeal and re-enactment of section 4

3. Section 4 of the principal Act is repealed and the following section substituted therefor:

“Application of Act

4. This Act shall apply to all plant genera and species.”.

Amendment of section 6

4. Section 6 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) The Registrar may, in relation to a particular matter or class of matters, by writing under his hand, delegate all or any of his powers or functions under this Act (except this power of delegation) to an Assistant Registrar of Plant Varieties, any public officer, or any person with the relevant qualifications for or experience in the matter or class of matters, so that the delegated

powers and functions may be exercised by the delegate with respect to the matter or class of matters specified in the instrument of delegation.”; and

- (b) by inserting, immediately after subsection (2), the following subsection:

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“(3) Where the delegate is a person with the relevant qualifications or experience referred to in subsection (1), he shall, when exercising the delegated powers or functions, be deemed to be a public servant for the purposes of the Penal Code (Cap. 224).”.

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Amendment of section 14

5. Section 14(3) of the principal Act is amended by deleting the words “a local prescribed examination authority” and substituting the words “an Examiner appointed by the Registrar for the purposes of this subsection”.

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Amendment of section 17

6. Section 17 of the principal Act is amended —

- (a) by deleting the words “prescribed examination authority in Singapore (referred to in this section as a local prescribed examination authority)” in subsection (1) and substituting the words “Examiner appointed by the Registrar for the purposes of this section”; and

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- (b) by deleting the words “local prescribed examination authority” wherever they appear in subsections (1)(a), (2), (3) and (4) and substituting in each case the word “Examiner”.

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Amendment of section 18

7. Section 18(1) of the principal Act is amended by deleting the words “a prescribed examination authority” and substituting the words “an Examiner”.

Amendment of section 19

8. Section 19(3) of the principal Act is amended —

(a) by deleting the words “a local prescribed examination authority” and substituting the words “an Examiner”; and

(b) by deleting the words “the local prescribed examination authority” and substituting the words “the Examiner”.

Amendment of section 22

9. Section 22 of the principal Act is amended by inserting, immediately after subsection (3), the following subsection:

“(3A) Notwithstanding subsection (1)(a), where this Act did not apply to a plant genus or species before the date of commencement of section 3 of the Plant Varieties Protection (Amendment) Act 2014, and an application for a grant of protection is made within one year after that date in respect of any plant variety belonging to that plant genus or species, that plant variety shall be deemed to be new if harvested or propagating material of that plant variety has not been sold, or otherwise disposed of, in Singapore to another person, by or with the consent of the breeder for the purposes of exploitation in Singapore of that plant variety —

(a) earlier than 6 years before the date that application is made, in the case of trees or vines; or

(b) earlier than 4 years before the date that application is made, in any other case.”.

Amendment of section 25

10. Section 25(2) of the principal Act is amended by deleting the words “a prescribed examination authority” in paragraph (b) and substituting the words “an Examiner”.

Amendment of section 47

11. Section 47(2) of the principal Act is amended by deleting the words “officer of a local prescribed examination authority referred to in section 17(1)” and substituting the words “Examiner referred to in

section 17(1) and officer thereof (if the Examiner is not an individual)”.

Repeal of Schedule

12. The Schedule to the principal Act is repealed.

EXPLANATORY STATEMENT

This Bill seeks to amend the Plant Varieties Protection Act (Cap. 232A) for the following main purposes:

- (a) to extend the application of the Act to all plant genera and species;
- (b) to enable the Registrar of Plant Varieties (the Registrar) to appoint any person, organisation or entity to be an Examiner for the purposes of the Act;
- (c) to enable anything which currently may be done by a prescribed examination authority to be done by an Examiner appointed by the Registrar for that purpose; and
- (d) to enable the Registrar to delegate all or any of his powers or functions under the Act to any person with the relevant qualifications or experience, and to deem any delegate who is such a person to be a public servant for the purposes of the Penal Code (Cap. 224) when exercising such powers or functions.

Clause 1 relates to the short title and commencement.

Clause 2(a) amends section 2 by introducing a new definition for the term “Examiner”, so as to enable the Registrar to appoint any person, organisation or entity to be an Examiner for the purposes of the Act.

Clause 2(b) deletes the definition of “prescribed examination authority” in section 2, which will be redundant as a consequence of the replacement of that term wherever it appears in the Act with the term “Examiner” (by clauses 5 to 8, 10 and 11).

Clause 3 repeals and re-enacts section 4 to extend the application of the Act to all plant genera and species.

Clause 4(a) replaces section 6(1) to enable the Registrar to delegate all or any of his powers or functions under the Act to any person with the relevant qualifications or experience.

Clause 4(b) inserts a new section 6(3) to deem any delegate (of the Registrar) who is a person with the relevant qualifications or experience referred to in the amended section 6(1) (by clause 4(a)) to be a public servant for the purposes of the Penal Code, when exercising the delegated powers or functions.

Clauses 5, 6, 8 and 11 amend sections 14(3), 17(1) to (4), 19(3) and 47(2), respectively, to enable anything which currently may be done by a prescribed examination authority in Singapore to be done by an Examiner (whether in or outside Singapore) appointed by the Registrar for that purpose.

Clauses 7 and 10 amend sections 18(1) and 25(2), respectively, to enable anything which currently may be done by a prescribed examination authority in any UPOV member other than Singapore to be done by an Examiner in any UPOV member other than Singapore. In this context, a UPOV member is a state or an intergovernmental party to the International Convention for the Protection of New Varieties of Plants which is a member of the International Union for the Protection of New Varieties of Plants constituted pursuant to that Convention.

Clause 9 inserts a new section 22(3A) to provide that where an application for a grant of protection for a plant variety is made, in respect of any plant variety belonging to a plant genus or species to which the Act did not apply before the date of commencement of clause 3, within one year after that date, that plant variety will be deemed to be new for the purposes of the Act, if certain requirements are satisfied.

Clause 12 repeals the Schedule as a consequence of the repeal and re-enactment of section 4 (by clause 3).

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
