

INSTRUCTIONS FOR COMPLETING THE FORM

- a. Applicable to the whole plant kingdom.
The application will be formally accepted after receipt of the payment of the application fee and the fee for the 1st DUS testing year. The fees can be found on <https://www.raadvoorplantenrassen.nl/en/plant-breeders-rights-and-or-listing/applicable-fees/>. When the applicant or his predecessor in title has filed this variety already or at the same time for listing to the Board for plant varieties, an adapted fee is applicable.

- b. Only applicable to varieties of:
- vegetable species; as mentioned in art. 2, section 1, subsection b, of Directive 2002/55/EC;
 - agricultural species; mentioned in art. 1, section 1, of Directive 2002/53/EC;

The application will be formally dealt with after receipt of the payment of the application fee and the fee for the 1st DUS testing year. The fees relating to applications can be found on <https://www.raadvoorplantenrassen.nl/en/plant-breeders-rights-and-or-listing/applicable-fees/>. When the applicant or his predecessor in title has filed this variety already or at the same time for plant breeders' rights to the Board for plant varieties, an adapted fee is applicable.

- c. The application fee (to be paid to the Board for plant varieties) for both purposes provided they are filed simultaneously can be found on <https://www.raadvoorplantenrassen.nl/en/plant-breeders-rights-and-or-listing/applicable-fees/>.
- d. When both boxes are marked while application for listing is not open (see note b), the application will be understood as an application for plant breeders' rights.

The Board for plant varieties can only deal with complete applications, this means that:

1. the application forms have to be completed en correctly filled in. For some vegetable species and for all ornamentals and horticultural species also a representative photograph has to be submitted.
2. The application fee has been fulfilled;
3. The fee for the 1st DUS testing year has been fulfilled, for which Naktuinbouw will reserve temporarily this fee for the applicant.

At the moment the above mentioned criteria have been fulfilled the application date (= priority date) will be determined. The Board for plant varieties can formally deal with the application and will send the applicant a letter of acceptance.

In addition to point 3: Naktuinbouw will send the invoice for the 1st DUS testing year to the applicant after the acceptance of the execution of the DUS-test of the application.

Naktuinbouw will carry out the DUS-test of the application unless it concerns a species of which, according to bilateral contracts, the DUS-test will be performed by another UPOV-memberstate or in case it concerns a request for take over of a DUS-report created by another UPOV-member state. Overviews of bilateral agreements can be found at:

Agricultural: <https://www.naktuinbouw.com/research/listing-and-plant-breeders%E2%80%99-rights-testing-2>

Ornamental: <https://www.naktuinbouw.com/research/plant-breeders%E2%80%99-rights-testing>

Vegetable: <https://www.naktuinbouw.com/research/listing-and-plant-breeders%E2%80%99-rights-testing>

- e. Only applicable for applications for the listing of vegetable species. De trials should be carried out according to the indications and regulations mentioned on the website of Naktuinbouw. [Bedrijfsproeven groentegewassen | Naktuinbouw](#)
- f. Only applicable to applications of vegetable varieties in certain crops. An overview can be found

at <https://www.naktuinbouw.com/two-tests-one-year>

- g. For the application of marketing authorization of vegetable species (only if applied for listing): <https://www.naktuinbouw.com/vegetable/research-tests/research/autorisation-vegetable-crops>. For agricultural species marketing authorization can be requested at the NAK in Emmeloord.
- h. Only applicable for agricultural maize varieties as the DUS-testing of this species takes only one year. If a variety does not perform well for VCU in the first testing year, the application can be cancelled and the DUS examination fee will be reimbursed.
- i. Legal entities or natural persons from EU member states can apply for National Plant Breeders' Rights or for listing in the National list.
- Applicants for National Plant Breeders' Rights from a non-EU member state require a representative in the Netherlands.
- Applicants for listing in the National list from a non-EU member state require a representative in the EU.
- Concerns the information regarding the applicant. An application for plant breeders' rights can only be submitted by the person who has bred or discovered and developed the variety, or his successor. When the ownership of the variety has been transferred, see item 5.
- j. For applications for listing the person is mentioned who is responsible for the maintenance of the material of the variety. This maintainer will be included also, after inclusion of the variety in the Dutch Variety Register (Dutch National List), in the EU common catalogue. When no information is mentioned at this item, the applicant will be mentioned as the maintainer of the variety.
- k. This has to be a correspondence address in the European Union.
In case one of the applicants has been indicated to act on behalf of the other applicant(s), name and address information has to be filled in. The application form has to be signed by all applicants as well as the proxy which has to be annexed to the application form.
- l. Please indicate a breeders' reference. In case you wish to propose at the same time the denomination proposal, please fill in and complete the information at 'Proposed denomination'. If you wish to propose the denomination at a later stage, please make use of the denomination form. <https://www.raadvoorplantenrassen.nl/en/homepage/other-forms>.
- m. (Only for plant breeders' rights)
When the applicant has not bred the variety himself, the breeder and the transfer of the claim to plant breeders' rights should be indicated. **A (copy of the) document demonstrating the transfer of the claim must be enclosed.**
- n. This information is relevant for the possibility to take over test results from foreign authorities, in which case the (reduced) taking-over fee (instead of the examination fee) is applicable. Without this information the Board for plant varieties will not take over test results.
- o. Code for indicating phase or stage:
A = application is in process
B = application has been rejected
C = application has been withdrawn
D = plant breeders' rights have been granted or the variety has been listed.
- p. Priority claim (only for plant breeders' rights)
An application for plant breeders' rights in the Netherlands can be submitted within twelve months of the first application in another UPOV-country. This first application must still be valid. In that case the postponing of the DUS-test can be requested. This should be stated explicitly. The application will then be dealt with as a provisional application. Only payment of the application fee is necessary in those cases.

A provisional application means that the DUS-test will not be started, till the applicant has requested, within two years after the lapsing of the above mentioned period, for a modification from the provisional application to a complete application.

In case postponing of the DUS-test is not requested, the application will be dealt with as a complete application. Application fee and the fee for the 1st DUS-testing year will be charged directly after submitting the application.

Herewith the breeder, which has already applied for plant breeders' rights in another member state, is given the possibility for a period of one year to submit a provisional application also in other countries. This method allows you to reserve rights with having to comply directly with all necessary formalities.

In case priority is claimed, within 3 months after the submission of the concerned (provisional) application, certified copies of the documents relating to the first application, have to be received by the Board for plant varieties. (see item 10 on the application form)

q. Novelty (only for plant breeders' rights):

Questions 8a and 8b concern the novelty of the variety. The granting of plant breeders' rights is only possible for 'new' varieties. It is important whether the variety is new in commercial terms: the variety may not be sold or otherwise disposed of to others considering the exploitation of the variety. Herewith also counts that neither propagating material nor harvested material may be sold. This may include brewing cut flowers, bulbs, seedlings or seeds.

However, the following exception can be applied.

The sale of the variety is permitted when:

- the variety has been sold in the Netherlands within a period of one year before the date of application;
- the variety has been sold outside the Netherlands within a period of four years before the date of application or in case of trees and vine within a period of six years before the date of application;

The applicant is expected to have taken reasonable precautions to ensure that sales or comparable disposals have not taken place earlier than allowed.

The provision of the material of the variety is thus permitted, only when the material has not come at the free disposal of a third party. This may include propagating material that is based on growing contract solely for propagation and for feeding to a propagator. There is no speaking of free disposal of the material in such cases; the placing at someone's disposal is not done in view of the exploitation of the variety.

Notes

Along with the application form a completed technical questionnaire concerning the variety has to be sent in.

Relevant forms can be found on:

<https://www.raadvoorplantenrassen.nl/en/homepage/application-forms/>

For ornamentals and horticultural species it is obliged to add a resembling and representative photo of the variety to the completed technical questionnaire.

For the applying of listing for agricultural species, a technical questionnaire for the VCU-trial has to be completed besides the technical questionnaire for the DUS-test.

Relevant forms can be found on:

<https://www.raadvoorplantenrassen.nl/en/homepage/application-forms/>.