



駐歐盟兼駐比利時代表處經濟組 函

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受文者：行政院農業委員會

發文日期：中華民國97年1月14日

發文字號：比貿字第09700000280號

速別：普通件

密等及解密條件或保密期限：普通

附件：歐盟部長理事會2008年第8號規章 (CouncilReg-15-2008.pdf)

主旨：歐盟公告修訂植物品種權申請人資格，自本(2008)年1月31日起生效後，任何自然人或法人皆可提出申請，請查照並請惠轉我相關權利人團體參考。

說明：

- 一、依本(2008)年1月11日第L 8期歐盟公報(Official Journal)所刊載之歐盟部長理事會2008年第15號規章(Council Regulation (EC) No 15/2008，如附件)辦理。
- 二、查有關歐洲共同體植物品種權申請人資格之原規定為歐盟部長理事會1994年第2100號規章(Regulation (EC) No 2100/1994)第12條，其規定申請人須為自然人或法人，且其所屬國籍須為歐盟會員國、已加入「保護新植物品種聯盟」(Union for the Protection of New Varieties of Plant)之國家，或不屬上述國家，但賦予歐盟會員國權利所有人等同於第2100號規章所訂保護效力之第三國自然人或法人。歐盟執委會在上(2007)年3月間決定接受我國權利人之申請案，即係依據以上等同效力之規定，經審查 貴會所提供資料後決議之結果。
- 三、查本次以第15號規章修訂之結果，仍規定申請人須為自然人或法人，惟刪除原與國籍或等同效力有關之規定；另在第2100號規章第52條有關承認申請案優先權之規定方面，則刪除須符合原第12條等同效力規定之條款。



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本件限辦日期：年 月 日 止

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正本：行政院農業委員會

副本：經濟部智慧財產局（含附件）、經濟部國際貿易局（含附件）

2008/01/14  
2008.01.27

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## COUNCIL REGULATION (EC) No 15/2008

of 20 December 2007

amending Regulation (EC) No 2100/94 as regards the entitlement to file an application for a Community plant variety right

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

## Article 1

Regulation (EC) No 2100/94 is hereby amended as follows:

Having regard to the proposal from the Commission,

1. Article 12 shall be replaced by the following:

Having regard to the opinion of the European Parliament,

*Article 12***Entitlement to file an application for a Community plant variety right**

Whereas:

An application for a Community plant variety right may be filed by any natural or legal person, or any body ranking as a legal person under the law applicable to that body.

(1) Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights <sup>(1)</sup> creates a Community regime for plant varieties, which allows for the grant of Community plant variety rights (CPVR), valid throughout the Community.

An application may be filed jointly by two or more such persons.;

(2) In the interests of the facilitation of trade it is appropriate to make the CPVR easily accessible. Therefore, the conditions for entitlement to file an application for the CPVR should be simplified and one application system for all applicants should be introduced.

2. in Article 41(2), the words '12(1)(b),' shall be deleted;

(3) Regulation (EC) No 2100/94 should therefore be amended accordingly.

3. Article 52(4) shall be replaced by the following:

'4. Paragraphs 2 and 3 shall also apply in respect of earlier applications that were filed in another State.'

## Article 2

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 December 2007.

For the Council  
The President  
F. NUNES CORRELA

<sup>(1)</sup> OJ L 227, 1.9.1994, p. 1. Regulation as last amended by Regulation (EC) No 873/2004 (OJ L 162, 30.4.2004, p. 38).