



**Salil Siriwat**  
Patent Agent  
salil.s@tilleke.com

## Protecting New Plant Varieties Under Thai Law

In Thailand, plant varieties are protected under the Plant Varieties Protection Act B.E. 2542 (1999) (Act), which is administered by the Ministry of Agriculture and Cooperatives (Ministry). The Act aims to incentivize plant breeding and the conservation of plants and germplasm.

The Act classifies plant varieties into four groups, including local domestic plant variety, wild plant variety, general domestic plant variety, and new plant variety. This article discusses how a new plant variety can be protected under the law.

A new plant variety can be registered by a Thai plant breeder. A juristic person which has its head office in Thailand is treated as a Thai entity. A non-Thai plant breeder or a foreign entity may seek protection under the Act if they are a national of a country that is a party to the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights, which currently stands as the only international convention or treaty on plant varieties to which Thailand adheres.

Since the Act also sets out specific rules on access and benefit sharing, a person who collects or gathers wild plant varieties for commercial research must obtain permission from the Ministry and sign a profit-sharing agreement. The income accrued from the varieties gathered under the agreement will go into the Plant Varieties Protection Fund for plant conservation purposes.

A registrable new plant variety must be distinct from other varieties, demonstrate uniformity and stability in the particular features of the variety (DUS test), and be deemed novel (i.e., the variety has not been commercially exploited before filing an application, or if a Plant Variety Protection Application has already been filed, it can be no more than 12 months old).

Once registered, the rights holder has the sole rights to produce, sell, distribute, import, export, or possess the propagating materials of the "new plant variety." The Act also sets out limitations on these exclusive rights, including uses of the protected varieties for education, study, experimentation, or research.

While the plant variety protection laws of many other countries include all genera and species, not all plant varieties are eligible for protection under Thai law. Eligible plant varieties are announced from time to time by the Department of Plant Variety Protection of the Ministry as protectable new plant varieties.

The table below shows the eligible plant varieties that are currently on the list for plant variety protection. When seeking protection for a plant variety that is not on the list, it is essential to seek the advice of local counsel. 🇹🇭

### Plant Varieties Currently Eligible for Protection

(1) rice; (2) sugarcane; (3) mango; (4) orchid (*Dendrobium*); (5) vetiver; (6) crown of thorns (*Euphorbiaceae*); (7) jade plant (*Euphorbiaceae*); (8) tomato; (9) chili; (10) cucumber; (11) watermelon; (12) bitter melon; (13) water spinach (*Ipomoea aquatica*); (14) brassica (*B. alboglabra*); (15) brassica (*B. chinensis*); (16) snake bean (*Vigna*); (17) corn; (18) soybean; (19) mung bean (*Vigna radiata*); (20) pomelo; (21) durian; (22) lychee; (23) longan; (24) papaya; (25) cassava; (26) curcuma flower (*Curcuma sp.*); (27) lime (*Citrus aurantifolia*); (28) orange (*Citrus reticulata*); (29) custard apple (*Annona*); (30) tamarind; (31) rambutan; (32) orchid (*Vanda sp.*); (33) water lily; (34) anthurium; (35) eucalyptus; (36) rubber (*Hevea brasiliensis*); (37) caladium (*Caladium bicolor*); (38) star fruit (*Averrhoa carambola*); (39) adenium; (40) plumeria; (41) marian plum (*Bouea*); (42) aglaonema; (43) guava (*Psidium*); (44) teak (*Tectona grandis*); (45) acacia (*Acacia auriculiformis* A. Cunn. ex Benth.); (46) banana (*Musa*); (47) melon (*Cucumis melo* L. cv. *Cantaloupensis* and *Cucumis melo* L. cv. *Reticulatus*); (48) jackfruit (*Artocarpus heterophyllus*); (49) palm oil; (50) gourd; (51) acacia (for timber) (*Acacia auriculiformis* A. Cunn. ex Benth., *A. mangium* Willd., *A. aulocarpa* A. Cunn. ex Benth. and *A. crassicaarpa* A. Cunn. ex Benth.); (52) orchid (*Phalaenopsis* Blume); (53) orchid (*Cattleya* Lindl.); (54) eggplant (*Solanum melongena* L.); (55) lettuce (*Lactuca sativa* L.); (56) broad bean (*Phaseolus vulgaris* L.); (57) pumpkin (*Cucurbita moschata* Duchesne); (58) angled gourd (*Luffa acutangula* (L.) Roxb.); (59) napier grass (*Pennisetum purpureum* Schumacher); (60) cotton (*Gossypium hirsutum* L.); (61) sesame (*Sesamum indicum* L.); (62) pineapple (*Ananas comosus* (L.) Merr).