



Complying with UPOV 1991

The Breeder's Right

What it UPOV 1991 does:

- Requires the Breeder's authorization (can include paying a royalty) for:
 - Production or reproduction of seed of the protected variety
 - Conditioning for purposes of propagation
 - Offering for sale and sale
 - Stocking for purposes of sale
 - Exporting or importing

What it doesn't do:

- Restrict the use of protected varieties for any experimental purposes or any private, non-commercial purposes (such as subsistence farming)
- Allow breeders to unreasonably restrict access to protected varieties the action is not in the public interest
 - if a breeder unfairly or unreasonably refuses to grant a license for a protected variety, the individual requesting the license can apply for a compulsory license from the Plant Breeders' Rights Office

Farmer's Privilege

What UPOV 1991 does:

- Adds a clear clause giving countries the ability to provide a farmer's exception to the parts of the Breeder's Right

What it doesn't do:

- Prevent countries from providing farmers with the ability to save seed

UPOV 1991 adds a clear clause providing for an optional farmer's exception to the Breeder's right which allows, for planting on a farmers own farm:

- Production and reproduction of seed
- Conditioning for the purposes of propagation

Offering for sale, sale, stocking for sale, export and import still require the Breeder's authorization

Royalty Collection

What UPOV 1991 does:

- Extends the Breeder's right to harvested material (grain)
 - Where the Breeder has not had a reasonable opportunity on the seed

What it doesn't do:

- Allow for royalties to be collected on both seed and grain

Hybrids and Essential Derivation

What UPOV 1991 does:

- Extends Breeder's right to hybrids produced from his/her protected variety
- Extends Breeder's right to varieties "essentially derived" from his/her protected variety (not the breeding, just the commercialization)

What it doesn't do:

- Prevent other Breeders from using protected varieties to breed new varieties
 - UPOV 1991 contains a clause that makes it compulsory for breeders to allow other breeders to have free access to protected material to develop new and different varieties.

General

What UPOV 1991 does:

- Extends the protection from 15 years to 20 years for most crop kinds and from 18 to 25 years for trees and vines, *(Canada's current Plant Breeders' Rights legislation actually provides protection for 18 years for all crop kinds – Bill C-18 extends protection to 20 years for most crop kinds and 25 for trees and vines)*

What it doesn't do:

- Contain any language about enforcement or penalty when the right is breeched.