



agriculture,
forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
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PROTEA CULTIVAR REGISTRATION GUIDELINES AND IMPORTANT TERMINOLOGIES USED DURING REGISTRATION PROCESS

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

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1. ACRONYMS AND ABBREVIATIONS

ACRA - Australian Cultivar Registration Authority

DAFF - Department of Agriculture, Forestry and Fisheries

DUS - Distinctness, Uniformity, and Stability

GMO - Genetically Modified Organisms

ICNCP - International Code of Nomenclature for Cultivated Plants

ICRA - International Cultivar Registration Authority

IPCR - International Proteaceae Cultivar Register

ISHS - International Society for Horticultural Science

PBR - Plant Breeders' Rights

PIA - Plant Improvement Act

UPOV - Union for the Protection of New Varieties of Plants

2. DEFINITIONS

Breeder – a person who bred or discovered and developed a new cultivar; is an originator of a new cultivar.

Cultivar – is a grouping of plants within a single botanical taxon that has been selected for a particular characteristic or combination of characteristics and that is clearly distinct, uniform, and stable in these characteristics and that when propagated by appropriate means retains those characters. The naming of cultivars should conform to the ICNCP.

Cultivar epithet – is the defining part of a name that denotes a cultivar, usually following a genus name or a binary combination or the common name equivalent.

International Proteaceae Cultivar Register (IPCR) – means the register kept by Directorate Plant Production which provides for registration of cultivar names of all members of the Family Proteaceae, except the Australian genera.

International Proteaceae Cultivar Checklist – is a list of published cultivar names of cultivated Proteaceae cultivars and excludes the cultivar names that have been submitted for cultivar name registration.

Denomination – is the generic name of a cultivar.

DUS Test – is a test with which the statutory registration authority verifies Distinctness, Uniformity and Stability for the grant of exclusive plant breeders' rights.

Introducer – is the person or organisation that first distributes and/or sells the cultivar.

Plant Breeders' Rights – is a form of Intellectual Property Right providing for the acquisition of legal rights in terms of the Plant Breeders' Rights Act, 1976 (Act No 15 of 1976), in order to obtain royalties as remuneration for efforts made during the breeding of a new variety of a plants. It includes propagation and harvesting of the specific plant variety for a given number of years.

Propagating material – any material of a plant that can be used for the propagation of a plant

Registrar – is a person or institution appointed by an international cultivar registration authority to carry out the duties of registrations; in this context it is DAFF which is the International Cultivar Registration Authority (ICRA) for Proteaceae.

Registrant – is a person submitting an application to register a cultivar name with the ICRA.

Registration – is the act of registering cultivar name with the registration authority.

3. BACKGROUND

Registration of cultivar names is an important aspect of any plant industry, promoting order, uniformity, accuracy and stability in the naming of cultivars ensuring that the different cultivars can be identified by distinct names, minimising duplication and confusion in the identity of the different cultivars. The purpose of cultivar name is not to indicate its origin or characteristics, but to provide names of referring to it.

The first of Proteaceae cultivar names were registered in the International Proteaceae Cultivar Register (IPCR) in 1974. Proteaceae breeders and introducers of new cultivars are advised to register their cultivar names, preferably before commercialisation of the cultivar to ensure that the name is unique. However, registration could take place after commercialisation has commenced. Registration concerns all named cultivars.

The Directorate Plant Production of South Africa's Department of Agriculture, Forestry and Fisheries is the International Cultivar Registration Authority (ICRA) for Proteaceae. DAFF maintains the International Proteaceae Cultivar Register (IPCR) and Checklist for all names in the Family Proteaceae, excluding the Australian genera. Cultivar names of the Australian genera of the Family Proteaceae are registered at the Australian Cultivar Registration Authority (ACRA). The IPCR registrar, who is the Plant Production Directorate within DAFF, registers new cultivar names in accordance with the International Code of Nomenclature for Cultivated Plants (ICNCP) under the guidance of the Commission on Nomenclature and Registration of the International Society for Horticultural Science (ISHS).

It should be noted that registering Proteaceae cultivar names in the IPCR does not provide any legal protection. It is an international, non-statutory process (not regulated by legislation) and participation is voluntary. The purpose is to ensure that the cultivar name is documented with a description of the plant and will be recognised internationally. It means that any breeder in any country may submit his cultivar name for registration in the IPCR without being subject to domestic legislation that requires an applicant to have a legal representative in the country. Breeders may however also choose to obtain a PBR in any country or more than one country and submit the cultivar name for registration in the IPCR. When this information on valid PBR is known, it is indicated in the IPCR. In South Africa, the protection of new cultivars can be obtained through the Plant Breeders' Rights Act, 1976 (Act no. 15 of 1976), which provides for granting of intellectual property rights on new cultivars and provides for exclusive use of the cultivar for a number of years. Plant Breeders' Rights are granted and a certificate issued when a new cultivar complies with the DUS [Distinctness, Uniformity & Stability] requirements.

A breeder who wants his variety protected by PBR in South Africa as well as the cultivar name registered in the IPCR, has to submit an application for PBR to Directorate Genetic Resource (PBR Office) and an application for IPCR to Directorate Plant Production within DAFF. The PBR office will conduct a DUS test to determine whether a PBR can be granted.

IPCR registration of a cultivar name is not dependent on the grant of a PBR on the same cultivar.

In brief, it is important to note that registration of cultivar names with ICPR is not mandatory and breeders should protect their cultivars using the applicable legislation in their respective countries.

4. INTERNATIONAL CULTIVAR REGISTRATION AUTHORITY (ICRA)

The ICRA is a body appointed by the ISHS that aims to promote stability in the naming of cultivated plants by publishing lists of legitimate and internationally recognized names in the groups of plants for which they are responsible. The ICRA applies the rules of the International Code of Nomenclature for Cultivated Plants (ICNCP) when considering registration of cultivar names. The main aim of the ICRA is to prevent duplication of cultivar epithets within a denomination class, as well to ensure that names comply with the latest edition of the ICNCP.

When breeders file applications for registration of Proteaceae cultivar names on the form obtainable from Directorate Plant Production (DAFF), the ICRA will check each application to confirm that this cultivar name has not been used before and that it complies with the ICNCP rules. Registration is the acceptance of an epithet and its inclusion into a register. The ICRA is also mandated to ensure that new names are formally established, meaning published in a hard copy dated publication with a short description of the respective cultivars. In short, the primary functions of an ICRA are as follows:

- To register cultivar names in the denomination class for which they have accepted responsibility and to ensure their establishment e.g. South Africa is responsible for genera of the Family Proteaceae, excluding Australian genera.
- To assess applications submitted for registration of cultivar names.
- To ensure that cultivar names registered conform to the latest edition of the ICNCP.
- To publish full register and checklists of all cultivar names in the denomination class.
- To maintain records, in as much detailed information as possible (on the origin, characteristics and history of each cultivar name in the denomination class).

It is **not** the function of an ICRA:

- To conduct cultivar performance trials.
- To judge if one cultivar is more admirable or worthy than another.
- To judge distinctness of cultivars.

5. INTERNATIONAL PROTEACEAE CULTIVAR REGISTER (IPCR)

The IPCR is a valuable source of information of cultivar names already used in the countries that have undertaken breeding and selections. Although cultivar names used for the registration of Plant Breeders' Rights have preference over non protected cultivars, the cultivar names registered in the IPCR should be recognised as well as the rules of the ICNCP, which guides the registration of cultivar names.

The main aim of the IPCR is to promote stability in the naming of cultivated Proteaceae plants by publishing lists of authenticated and internationally recognized names. The IPCR prevents duplicated uses of cultivar epithets within a denomination class and also ensures that names are in agreement with the latest edition of the ICNCP. Only when the cultivar naming is done in accordance with the ICNCP, the registration will be done as an indicator for the acceptance of a cultivar name and its inclusion into a register.

6. INTERNATIONAL CODE OF NOMENCLATURE FOR CULTIVATED PLANTS (ICNCP)

The ICNCP, also known as the Cultivated Plant Code; is a set of rules designed to produce uniform practices throughout the world in the naming of all cultivars. It is also a guide to the rules and cultivars, plants whose origin or selection is primarily due to intentional human activity. ICNCP is used for naming plants that have specific desirable characteristics that are maintained through selective breeding or controlled through distinctive growing practices. This naming code does not use the traditional Linnaean hierarchical system and is more specific than the generic names given to plants growing in the wild. ICNCP deals with the use and formation of names for special plant categories in agricultural, forestry and horticultural nomenclature.

Some of the rules of ICNCP are as follows:

- The full name of a cultivar will always begin with the botanical name of the genus to which the cultivar belongs e.g. *Protea repens*, *Leucospermum cordifolium*.
- The name of cultivars must be published. This mostly happens in gardening magazines or publications of the International Cultivar Registration Authorities (ICRA) and is a dated publication containing at least short description of the cultivars.
- The cultivar name is placed between single quotations marks. E.g. *Protea* 'Adrea'
- The cultivar name may not consist of descriptive word only. A cultivar of a rose may not be called *Rosa* 'Deeply Red'. This is a confusing name, because many roses are deeply red.
- The cultivar name may not be misleading by referring to a characteristic that is not present in the cultivar. A cultivar without purple flowers may not be called 'Purple Strike'.

- Punctuation marks are forbidden in a cultivar name, except the apostrophe " ' ", the comma ",", the exclamation mark "!", the hyphen "-", and the full-stop ".". The name *Zantedeschia* 'Rembrandt?' is not allowed, whereas *Zantedeschia* 'Rembrandt!' is permitted. Punctuation marks must be kept simple.
- A cultivar name may also be a code of up to 10 characters. A code may consist of letters or alternating sets of letters and numbers. Breeder's references or codes consisting of only numbers are not acceptable as cultivar names.
- Several words can be used, but to a maximum of 30 letters.
- Since 1996 the cultivar name may not be translated into another language, but it may be transliterated if it is in a language that does not use Roman letters.
- Names must be easy to spell and pronounce as it will be widely used and must be free to be used by anybody in relation to that cultivar.
- Generally avoid using the common names of other plants if it may lead to confusion regarding the identity of the cultivar e.g. *Protea* "Silver Tree".
- A cultivar name may not contain the Latin or common name of the genus to which it belongs, e.g. *Leucadendron* 'Procerum Green'.

7. ROLE OF ICNCP

The increase in trade of plants across borders made it necessary to have rules according to which plants are named, in order to avoid duplication and confusion. This led to the acceptance of the International Code of Nomenclature for Cultivated Plants (ICNCP) in 1951. The originators/breeders of cultivars are to ensure that cultivar names comply with the rules of the ICNCP.

7.1 Objectives of ICNCP

- To provide a system that facilitates creation of acceptable cultivar names.
- To prevent duplication and ensures that registered names are in accordance with the Code.
- Promote international co-operation in this field by following the provisions of the Code and by helping to set up registration authorities where they are needed.
- Promotes uniformity, accuracy and stability in the naming of agricultural, forestry and horticultural plants.

7.2 Importance of registering a stable plant cultivar name

The absence of stability in some cultivar names creates problems for some aspects of legislation, administration and database management. The main aim of acceptable cultivar names is to promote stability in nomenclature. The stable and correct nomenclature helps in the following cases:

- Nursery owners to protect their intellectual property rights.
- Plant breeders can relate knowledge of genetics to plant material.
- Taxonomists know what they are working with.
- Communicators can have more confidence in the information they publish.
- Retailers can source appropriate plant materials.
- The general public can link their purchases to published information on gardening.
- As part of quality assurance accreditation it is recommended the traders to use the approved (internationally accepted) name only on the plant labels regardless of the trademarked or promotional name used.

It should be noted that the registration of a stable cultivar name does not give the applicant any intellectual property right but it should prevent other individuals from obtaining exclusive rights through Plant Breeders' Rights (PBR) for a similar cultivar or for a different cultivar in the same taxon with the same or similar cultivar name, provided the PBR authority considers the International Register during their consideration of the acceptability of the variety denomination. This registration is not an acknowledgement of the merit or distinctiveness of a cultivar but more of a recording system. Applicants should remember that registration may be refused if the name has been used before and should await the ICRA's decision before implementing any marketing for the plant. The success of the registration system depends upon the co-operation of all those involved with the creation and marketing of new plants.

7.3 Reasons for plant cultivar name change

- Sometimes a plant cultivar name change is done because a botanical taxonomist has reclassified the plant to more accurately reflect true taxonomic relationships after being disputed by other taxonomists.
- If the original cultivar name was incorrect.
- Cultivar names can be changed if they are not in accordance with the rules of the ICNCP or if the name was misspelt.

7.4 Who are Cultivar Name Registration Applicants?

- Any person who is a plant breeder or cultivar originator.
- An agent duly authorised by a breeder, especially where PBR is applicable.
- In most cases the applicant is the originator and the introducer.

Generally, anybody may submit an application to register a cultivar name, but if that person is not the breeder or originator of the cultivar, he/she should ensure the breeder gives consent.

NB: For further information on floriculture genera not currently covered and for guidance on how to become an ICRA, please contact the Secretary of ISHS Special Commission (*Melanie Underwood, Royal Horticultural Society, RHS Garden Wisley, Working, Surrey, GU23 6QB, UK. Email: melanieunderwood@rhs.org.uk*)

8. REFERENCES

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