



**NEW ZEALAND
INTELLECTUAL
PROPERTY OFFICE**
Plant Variety Rights

New Zealand

Plant Variety Rights

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I. GENERAL INFORMATION

I.A CLOSING DATES – NOTICE TO BREEDERS ENTERING VARIETIES IN CENTRAL DUS TRIALS CONDUCTED BY THE PVR OFFICE

You will need to meet the following deadlines in order to have your variety included in the central trials to be established in 2025 –

| | |
|------------------------------|-------------------------------------|
| Clover | Make application by 15 January 2025 |
| Grasses | Make application by 1 February 2025 |
| Roses | Make application by 31 March 2025 |
| Winter and Alternate Cereals | Make application by 15 April 2025 |

I.B MAORI PLANT VARIETIES COMMITTEE

The Plant Variety Rights Act 2022 includes provisions for the establishment of a Māori Plant Varieties Committee (MPVC), whose role is to assess whether a Plant Variety Right (PVR) may have adverse effects on associated kaitiaki relationships. Following the advertising of the positions in June and July 2024 and interviews in August and September 2024, the appointments have been confirmed of Aroha Mead, Dale Stephens, and Graeme Atkins as the inaugural members of the MPVC.

The Committee will hold its first meeting in early 2025 and the first task will be to develop the operating approach and finalise the terms of reference.

I.C PAYMENT OF TRIAL AND EXAMINATION FEES UNDER THE PVR ACT 2022

The Examiner will request payment of the growing trial fee and the examination fee using the case management system. PVR Regulations 2022 Section 44(1) prescribe a two (2) month period following the request, for the payment to be made. If the payment has not been received within the two (2) month period, the case management system will automatically lapse the application, under Section 50(5) of the PVR Act 2022 unless an extension has been granted by the Examiner before the due date. It is important to note that the Examiner cannot extend the time period after the due date.

Section 93 of the PVR Act 2022 provides for the possibility to restore a lapsed application. Application for restoration is necessary requiring an explanation, as a statutory declaration, regarding the reason for the non-payment of the fee. Following acceptance of the application for restoration request, the restoration application will be published in the PVR Journal and after a two (2) month period and payment of the outstanding fee, could be restored. Important to recognise that the variety will have no protection, and will show in the PVR register as lapsed, during the period between the application lapsing and the restoration date.

Please note that the above process differs from the PVR Act 1987 provisions for the payment of fees and an application will be ended if a requested examination or trial fee is not paid by the due date.

I.D APPLICATIONS AND GRANTS FOR 2023/24

During the financial year 1 July 2023 to 30 June 2024, 125 applications for plant variety rights were accepted (27% increase on the previous year), 93 grants were issued (9% decrease on the previous year) and 116 grants were terminated (30% increase on the previous year). At 30 June 2024 there were 1293 valid grants, a 2% decrease in comparison with the previous year.

I. E THE NECESSARY GENUS OR SPECIES IS ABSENT FROM THE APPLICATION PAGE BOTANICAL NAME DROP DOWN LIST

The botanical name drop-down list includes the genera and species for which application for varieties belonging to those genera and species have been made. With the entire plant kingdom protectable, it will then not be surprising, if a required genus and/or species is absent for a variety application you wish to make. Should this occur, please contact an Examiner and the Examiner will arrange for the botanical name to be added. Absent botanical names may include inter generic and inter specific classification names. It is important that every variety applied for is accurately classified with the correct botanical name. It is not desirable to substitute a genus or species for another on the drop-down list, which the variety may be close to.

I. F DISTRIBUTED, SOLD AND OFFERED FOR SALE

The PVR Act 2022 provides for a wider scope of protection than the PVR Act 1987 and this difference can be seen in the understanding of novelty or newness. The meaning of novelty under PVR Act 2022 covers the commercial exploitation of the variety with the consent of the breeder and refers to the distribution of propagating or harvested material. Distribution or distributed means sold or otherwise disposed of to another person for the purposes of variety commercialisation.

A practical implication of the new PVR Act 2022 on newness or novelty could be where a variety owner decides to distribute plants of the variety to growers without sales at the time of supply but with the intention of the commercial production of plant products e.g. fruit. This may impact novelty because the distribution was intended for exploitation of the variety, despite the absence of plants sales at the time of distribution.

I. G VISIT FROM THE KOREA SEED AND VARIETY SERVICE, REPUBLIC OF KOREA

Four Examiners and variety specialists visited PVRO Christchurch for three (3) days in December 2024. The visitors were interested to hear and see how the breeder or applicant is involved in the PVR examination process and in particular, the testing for distinctness, uniformity, and stability (DUS). Each day was divided into two (2) parts, in the morning a classroom style session was held with presentations, discussions and sharing of experience. The afternoon consisted of field visits to DUS growing trials for strawberry, raspberry, lettuce, potato, pasture plants and ornamentals. Participants found the experience of value, and all learned something.