



**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 deadline in order to have your variety included in the central trials to be established in 2020 –

Summer-sown Forage Brassicas Make application by 1 January 2020.

Clover Make application by 15 January 2020

Grasses Make application by 1 February 2020

I.B HOLIDAY CLOSING OF THE PLANT VARIETY RIGHTS OFFICE

The Plant Variety Rights Office will close at end of business on Tuesday, 24 December 2019 and re-open on Friday, 3 January 2020.

I.C PLANT VARIETY RIGHTS ACT (1987) REVIEW

The plant breeding industry has changed significantly over the last 30 years. Although a review of the PVR Act 1987 was first initiated in the early 2000s, it was put on hold in anticipation of the release of the Waitangi Tribunal's Wai 262 report, which made a number of recommendations affecting the PVR regime. It was further delayed by international negotiations in the Trans-Pacific Partnership Agreement, which has since morphed into the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

Under the CPTPP, New Zealand is now required to modernise the PVR regime to be consistent with the current international convention for plant variety rights (UPOV 91). This review is therefore necessary to ensure that the PVR Act is fit-for-purpose going forward.

From 9 July to 9 September 2019, MBIE released an Options Paper for consultation. This paper was informed by the issues stage and by an independent economic analysis of the Plant Varieties Innovation system commissioned by MBIE. The Options Paper set out options for changing the PVR Act and, where supported by the analysis, some preferred options. Further feedback was received via this consultation, and via a PVR hui held in Wellington in August 2019.

MBIE is now in the process of collating all submissions and feedback received from the above consultations. These will then be reviewed and used to provide advice to Ministers on changes to the PVR regime.

Once policy decisions have been made by Cabinet, new legislation will be drafted and is expected to be introduced to Parliament in May 2020. Members of the public will have a further opportunity to make submissions on the Bill at the select committee stage.

I.D THE REQUIREMENT FOR SEED TO BE SUPPLIED AT APPLICATION

Section 5.1 (a) (i) of the Plant Variety Rights Act 1987 requires that for certain plant species, a prescribed quantity of seed of that variety must be supplied at the time of application. For an application submitted on line, a maximum time period of four (4) months to supply seed will be permitted to supply the seed. It is important to recognise that the application can only be accepted and a filing date confirmed when seed is supplied. Should seed not be supplied within the set time period, the on line submission will become null and void and the application fee can be refunded on request. The status of null and void means that the submission effectively did not occur and an application has not been made.

I.E ADDRESS FOR SERVICE AND THE ON LINE DESIGNATED CONTACT

Section 5.1 (c) of the Plant Variety Rights Act 1987 requires that an address for service within New Zealand is provided for the application. This remains a requirement in the on line system however practically, most if not all, communication with an applicant is electronic using the designated contact email. This email address is increasingly a party overseas. Should this be the situation for an application, PVRO may request an alternative email or phone contact located in New Zealand for communication regarding plant material and technical matters. It has proven to be problematic for PVRO to communicate with a foreign party about plant quarantine or a growing trial located in New Zealand.

I.F RATIFICATION BY THE KINGDOM OF BELGIUM OF THE 1991 UPOV CONVENTION

The Government of the Kingdom of Belgium deposited its instrument of ratification of the UPOV 1991 Convention on 2 May 2019. The new law entered into force on 2 June 2019.