

Submission

Review of the Plant Variety Rights Act 1987: Proposed Regulations

Your name and organisation

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Responses to questions in the discussion document

The Regulations

2.1	PVR regulations - general
	<p>Do you agree with MBIE's proposal that the new PVR regulations be adapted, as far as possible, from corresponding provisions in the Patents Regulations 2014?</p> <p>We do not oppose the adaption of the patents regulations so far as it relates to areas shared by both the patents and the PVR regime. However, as acknowledged in the discussion document, special attention and adjustments need to be made to allow for the specific nature of PVRs.</p>

Regulations adapted from the Patents Regulations

3.1	Regulations adapted from the Patents Regulations
	<p>Do you agree with the outline of regulations to be adapted from the Patents Regulations set out in the table above? If not, please explain which aspects of the outline you disagree with, and why?</p> <p>We agree in principle with what has been outlined.</p>

PVR specific regulations

4.1	Denominations
	<p>Which of the two options for the time limit for submitting a replacement denomination do you support? Please explain why.</p> <p>We propose a third option. That there be no time limit while the application is under examination. However, if all other criteria for grant is satisfied, then a time limit is set for the proposal of a suitable denomination.</p> <p>This has the advantage of not unnecessarily delaying grant of an application but also allows the applicant some certainty in committing resources to proposing the denomination.</p>
4.2	Denominations
	<p>If you favour option (i) should the prescribed period for submitting a denomination be extendible? If so how long should any extension be, and on what grounds?</p> <p><i>[Insert response here]</i></p>
4.3	Examination
	<p>Do you agree with MBIE's proposals for the time limits for providing information and propagating material in relation to a PVR application? If not please explain why.</p> <p>We agree in principle.</p>

4.4	<p>Examination</p> <p>If you disagree with MBIE’s proposal, what alternative time limit regime should be adopted?</p>
	<p><i>[Insert response here]</i></p>
4.5	<p>Examination</p> <p>Do you consider that the two month period for paying trial or examination fees is reasonable? If not, please explain why.</p>
	<p>We agree in principle.</p>
4.6	<p>Examination</p> <p>MBIE proposes that the prescribed period be extendible only under genuine and exceptional circumstances. Do you agree with this? If not, what extension (if any) should be available, and under what criteria?</p>
	<p>We agree in principle. However, want to highlight that there are circumstances where delays go undetected until IPONZ notices are received.</p>
4.7	<p>Examination</p> <p>MBIE has proposed that the regulations empower the Commissioner to set the conditions of a growing trial. Do you agree with the conditions proposed by MBIE? Are there any other conditions that you think the Commissioner should have the power to set?</p>
	<p>We agree in principle as long as the conditions are in line with UPOV guidelines.</p>
4.8	<p>Examination</p> <p>MBIE proposes that where the Commissioner chooses to rely on a growing trial conducted by an overseas authority, and two more such reports are available, the Commissioner should determine which report to rely on. Do you agree with this proposal? If not please explain why.</p>
	<p>We agree that the Commissioner should determine which overseas report to rely on. This would give some consistency in evaluating overseas reports. We also suggest that NZ specific varieties should be included in these reports and are repeatable in NZ if required in case of disputes.</p>
4.9	<p>Compulsory licenses</p> <p>Do you agree with the proposed procedure for dealing with compulsory license applications? If not please explain why.</p>
	<p>We understand that the extension would be another three months above the initial two months period. If so, we propose a longer initial time frame so that feedback from interested parties, e.g. licensees, can be sought.</p>
4.10	<p>Compulsory licenses</p> <p>If you disagree with the proposed procedure, what other procedure could be used?</p>

[Insert response here]

Other Issues

5.1	Objections before grant Do you agree with the procedure proposed for objections before grant? If not please explain why.
	We are happy to see a procedure proposed that follows fundamental legal principles.
5.2	Objections before grant If you disagree with the proposed procedure, what alternative procedure do you suggest be adopted?
	<i>[Insert response here]</i>
5.3	Requests for propagating material or information from PVR owners Do you agree with the proposed time periods for providing information or propagating material relating to a granted PVR? If not please explain why.
	We agree with option 2.
5.4	Requests for propagating material or information from PVR owners MBIE proposes that the proposed time periods not be extendible. Do you agree with this proposal? If not what extensions should be available and under what grounds should extensions be provided?
	We suggest that extensions are available for exceptional circumstances similar to question 4.6 above.
5.5	Non-indigenous species of significance When should the regulations listing non-indigenous species of significance enter into force? Should they enter into force with the Bill's non-Treaty provisions, or be left until the Treaty provisions come into force? Please give reasons for your response.
	We suggest this is entered with the treaty provisions since it is related to it.
5.6	Non-indigenous species of significance Do you have any other comments on the list and the entries in it?
	<i>[Insert response here]</i>

Other comments

[Insert response here]