

DRAFT FOR CONSULTATION

Plant Variety Rights Regulations 2022

Governor-General

Order in Council

At Wellington this day of 2022

Present:
in Council

These regulations are made under section 150 of the Plant Variety Rights Act 2022 on the advice and with the consent of the Executive Council.

Contents

	Page
1 Title	7
2 Commencement	7
3 Interpretation	7
4 Transitional, savings, and related provisions	8
5 Application	8

Part 1 Miscellaneous

Subpart 1—Non-indigenous plant species of significance	
6 Non-indigenous plant species of significance	8
Subpart 2—Fees	
<i>General provisions</i>	
7 Amount of fees	8
8 Time of payment of fees	8
9 Form of payment of fees	9

Plant Variety Rights Regulations 2022

Renewal fees

10	When renewal fees become due	9
11	Period within which renewal fees must be paid	9
12	Certificate of payment of renewal fees	9

Subpart 3—Forms and documents

Use of case management facility

13	Certain information or documents must be given electronically through case management facility	10
14	Case management facility is prescribed electronic delivery method for certain purposes	10
15	Information that must be given when case management facility first used	10
16	Number of plant variety right application or plant variety right must be given when all information or documents filed under Act or regulations	11
17	Information or documents may be given by alternative delivery method	11
18	Electronic documents	11

Filing

19	Number of copies	12
20	Document filed when received in proper form	12
21	Filing date of document if not received on working day	12

Requirements for documents

22	Documents must be in English or Māori	12
23	Signatures	12

Subpart 4—Addresses

24	Address for service must be given	13
25	Communication address must be given	13
26	Change of address notice must be given	13
27	Sufficiency of address	14

Subpart 5—Agents

28	Agent may act on behalf of principal for purposes of regulations	14
29	Commissioner may give notices to agent	14
30	Commissioner may require principal of agent to file authority with Commissioner in certain cases	14
31	Commissioner must refuse to recognise certain persons as agent	15
32	Commissioner must notify refusal to recognise person as agent	16
33	Notice to Commissioner of revocation or alteration of authority	16
34	Notice of revocation or alteration of authority may be given by agent	16

Part 2
Process for obtaining grant of plant variety rights and other matters

Subpart 1—PVR applications

PVR applications

35	Application for PVR	17
36	Colour photographs to be supplied with certain applications	17
37	Quantities of propagating material to be provided with applications	18
38	Prescribed times for filing proposed denominations	18
39	Prescribed time for filing 1 or more alternative denominations	18
40	Variation of PVR application to alter the denomination	19
41	Prescribed times for supply by applicant of propagating material or further information required by Commissioner	19
42	Prescribed requirements under section 47(5) of Act	19
43	Reliance on report produced under section 47(2)(d) of Act	20
44	Prescribed times for payment of growing trial and examination fees	20
45	Matters that must be included in notice of opposition	20
46	Prescribed period within which notice of opposition may be filed	20
47	Counter-statement to notice of opposition	21
48	Prescribed times for supply by PVR holder of propagating material or further information required by Commissioner	21
49	Request for direction under section 70 of Act	22
	Subpart 2—Transmission of PVRs or interests in PVRs	
	<i>Registration of assignments and other interests in PVRs</i>	
50	Application under section 72 of Act	22
	<i>Vesting of PVRs or PVR applications without probate or letters of administration</i>	
51	Application to vest PVR or PVR application for PVR probate or letters of administration	23
	Subpart 3—Cancellation and nullification of PVRs	
	<i>Cancellation and nullification of PVRs</i>	
52	Application to Commissioner for cancellation or nullification of PVR	24
53	Counter-statement to application and evidence for cancellation or nullification of PVR	24
54	Procedure if no counter-statement to application for cancellation or nullification is filed	25

Subpart 4—Surrender of PVRs		
<i>Surrender of PVRs</i>		
55	Notice of offer to surrender PVR	25
56	Opposition to surrender of PVR	25
57	PVR holder must file counter-statement	25
58	Filing of evidence	26
Subpart 5—Restoration of lapsed applications and cancelled PVRs		
<i>Restoration of lapsed PVR applications</i>		
59	Request for restoration of lapsed PVR applications	26
60	When request for restoration of lapsed PVR application may be made	26
61	Opposition to restoration of PVR application	27
62	Applicant must file counter-statement	27
63	Filing of evidence	28
64	Protection of persons who use plant variety if Commissioner restores lapsed PVR application	28
<i>Restoration of cancelled PVRs</i>		
65	Manner in which request to restore cancelled PVR may be made	29
66	When request for restoration of cancelled PVR may be made	29
67	Opposition to restoration of cancelled PVR	29
68	Former PVR holder must file counter-statement	30
69	Filing of evidence	30
70	Protection of persons who use plant variety if Commissioner restores lapsed PVR	30
Subpart 6—Compulsory licences		
<i>Compulsory licences</i>		
71	Application for compulsory licence to exercise PVR	31
72	Procedure following application for compulsory licence	31
73	Time for applicant to comply with request under section 107(1) of Act	32
74	Filing of evidence	32
75	Amendment or revocation of compulsory licence	32
Subpart 7—Miscellaneous		
<i>PVR register</i>		
76	PVR register must contain record of grant of PVR	33
77	Other PVR information that must be entered in PVR register	33
78	Payment of renewal fees must be entered in PVR register	33
<i>Searches of PVR register and obtaining PVR information</i>		
79	Search of PVR register	33

Plant Variety Rights Regulations 2022

80	Information concerning PVR or PVR application that may be requested	34
81	How request for PVR information and certified copies must be made	34
	<i>Changes to PVR register and other official documents</i>	
82	Application to correct other persons' mistakes in PVR register, etc	34
83	Opposition to proposed correction	35
84	Applicant must file counter-statement	35
85	Filing of evidence	35
86	Opposition to Commissioner-initiated correction	36
87	Notice of application to court to correct PVR register	36
88	Notice of order of court to correct PVR register	36
	<i>Journal</i>	
89	Matters requested to be published in Journal	36
	<i>Evidence</i>	
90	Form of evidence	37
	<i>Amendment of documents</i>	
91	Amendment of documents	37
	<i>Miscellaneous</i>	
92	Power of Commissioner to waive requirements in exceptional circumstances	38
93	Power to waive requirements for PVR applications temporarily	38
94	Maintenance of certain records	38
	Part 3	
	Miscellaneous	
	Subpart 1—Procedural and evidential requirements for proceedings before Commissioner	
	<i>Proceedings to which this subpart applies</i>	
95	Application of this subpart	38
	<i>Documents filed in proceedings</i>	
96	Extra information that must be contained in documents filed in proceedings	39
	<i>Hearing before exercise of Commissioner's discretion</i>	
97	Hearing before exercise of Commissioner's discretion	40
	<i>Case management</i>	
98	Commissioner may require parties to attend case management conference	40
99	Commissioner may give directions	40
100	Parties must comply with Commissioner's directions	41

Plant Variety Rights Regulations 2022

101	Non-compliance with Commissioner’s directions	41
	<i>Halt in proceedings</i>	
102	Commissioner may halt proceeding	42
	<i>Consolidation of proceedings</i>	
103	Commissioner may consolidate proceedings	42
	<i>Extension of time limits in proceedings</i>	
104	Commissioner may extend time limits in proceedings	43
	<i>Evidence</i>	
105	Evidence restricted to particulars filed	43
	<i>Procedural and evidential requirements</i>	
106	Supply of documents for use of Commissioner	44
107	Party filing documents must copy documents to opposite party	44
108	Evidence out of time	44
109	Application for permission to file evidence out of time	44
110	Right to file evidence in reply if evidence in chief permitted out of time	45
111	Evidence from another proceeding	45
	Subpart 2—Conduct of hearings and related matters	
	<i>Hearings</i>	
112	Form of hearing	46
113	Commissioner may determine form of hearing, etc	46
114	Notice of hearing by appearance	47
115	Hearing fee	47
116	Venue for hearing by appearance	47
117	Conduct of hearing by appearance	47
	<i>Costs</i>	
118	Costs	48
	Schedule 1	49
	Transitional, savings, and related provisions	
	Schedule 2	50
	Non-indigenous species of significance	
	Schedule 3	51
	Fees payable under Plant Variety Rights Act 2022 (excluding GST)	
	Schedule 4	52
	Quantities of propagating material to accompany applications	

Regulations

1 Title

These regulations are the Plant Variety Rights Regulations 2022.

2 Commencement

These regulations come into force on 1 September 2022.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Plant Variety Rights Act 2022

address for service means 1 of the following addresses in New Zealand or Australia:

- (a) a postal address;
- (b) a post office box or document exchange box

agent means a person—

- (a) who is authorised by the person's principal (**X**) to act for **X** in any proceeding in accordance with these regulations or to take any step on **X**'s behalf under these regulations;
- (b) for whom recognition has not been refused by the Commissioner under regulation 30

anniversary date, in relation to a renewal fee for a PVR means the anniversary of the date on which the PVR was granted

case management facility means the case management facility that may be accessed through the Commissioner's website or web services

certificate of verification means a statement—

- (a) that a document to which the statement relates is a true and complete translation of the accompanying document to the best of the knowledge of the person who signs the statement; and
- (b) that is dated and signed

communication address means an electronic address at which communications may be received from the case management facility

proceeding means a proceeding under the Act or these regulations

verified translation means a translation into English of an accompanying document that has a certificate of verification attached

working day means a day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro Ki a Matariki/Matariki Observance Day, Labour Day, and Waitangi Day; and

- (b) the anniversary day for Wellington; and
 - (c) a day in the period that commences with 25 December in any year and ends with 2 January in the following year; and
 - (d) if 1 January in any year falls on a Friday, the following Monday; and
 - (e) if 1 January in any year falls on a Saturday or a Sunday, the following Monday and Tuesday; and
 - (f) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday.
- (2) An example used in these regulations has the following status:
- (a) the example is only illustrative of the provision to which it relates and does not limit the provision; and
 - (b) if the example and the provision to which it relates are inconsistent, the provision prevails.

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

5 Application

These regulations apply to all matters under the Act.

Part 1 Miscellaneous

Subpart 1—Non-indigenous plant species of significance

6 Non-indigenous plant species of significance

A non-indigenous plant species of significance is a species listed in Schedule 2.

Subpart 2—Fees

General provisions

7 Amount of fees

- (1) The fees set out in Schedule 3 are payable in respect of the matters set out in that schedule.
- (2) The fees are exclusive of goods and services tax (if any).

Compare: LI 2014/275 r 5

8 Time of payment of fees

Fees must be paid at the time of making an application or a request, or on giving notice or filing information or a document, in respect of which a fee is pay-

able, unless an arrangement acceptable to the Commissioner has been made for payment at another time.

Compare: LI 2014/275 r 6(1)

9 Form of payment of fees

Fees must be paid by electronic means.

Compare: LI 2014/275 r 7

Renewal fees

10 When renewal fees become due

A renewal fee becomes due on each anniversary date—

- (a) in the case of a plant variety that is a woody plant or its root stock, or a potato, until the 24th anniversary date that occurs on or after the date on which the PVR is granted:
- (b) in the case of any other variety, until the 19th anniversary that occurs on or after the date on which the PVR is granted.

Compare: LI 2014/275 r 8

11 Period within which renewal fees must be paid

- (1) The holder of a plant variety right must pay the renewal fee specified in Schedule 2 in accordance with subclause (2).
- (2) The prescribed period under section 86(1) of the Act within which a renewal fee of the Act must be paid is each period of 3 months ending with the close of the anniversary date.

Compare: LI 2014/275 r 10

12 Certificate of payment of renewal fees

After receipt of a renewal fee, the Commissioner must issue a certificate to the PVR holder that specifies—

- (a) details of the plant variety right; and
- (b) the date on which the fee was paid; and
- (c) the amount of the fee; and
- (d) the period in respect of which the fee was paid.

Compare: LI 2014/275 r 11

Subpart 3—Forms and documents

Use of case management facility

13 Certain information or documents must be given electronically through case management facility

- (1) Any information or a document that the Act or these regulations requires to be given to or by the Commissioner in the prescribed manner must be given—
 - (a) through the case management facility; and
 - (b) in a file format of a type approved by the Commissioner.
- (2) Anything that is given using the case management facility must be treated as having been received—
 - (a) by the Commissioner, at the time when the information or document becomes accessible to the Commissioner through the case management facility; or
 - (b) by a person other than the Commissioner, at the time when the Commissioner notifies the person at the person's communication address that the information or document is accessible to the person through the case management facility.
- (3) Only the Commissioner may use the case management facility to give information or a document to a person other than the Commissioner.

Compare: LI 2014/275 r 12

14 Case management facility is prescribed electronic delivery method for certain purposes

The case management facility is—

- (a) the prescribed electronic delivery method for the purpose of section 146(2) and (3)(a) of the Act; and
- (b) not a prescribed electronic delivery method for the purpose of section 147(1)(c) of the Act; and
- (c) the prescribed manner in which matters described in section 150(1)(c)(ii) and (iii) of the Act (for example, plant variety rights applications) are to be dealt or proceeded with, including the manner in which communications with the Commissioner are to be conducted (to the extent provided by the case management facility).

Compare: LI 2014/275 r 13

15 Information that must be given when case management facility first used

The following information must be given to the Commissioner, to the extent that the case management facility requires, when any information or a document is first given to the Commissioner in respect of a matter through the case management facility:

- (a) the full name of the person giving the information or document or on whose behalf the information or document is given, for example, the applicant or the opponent) (the **person**); and
- (b) the person's address for service, if required by regulation 24; and
- (c) the person's communication address; and
- (d) the name of the person's agent, if an agent is acting, or will act, for the person.

Compare: LI 2014/275 r 14

16 Number of plant variety right application or plant variety right must be given when all information or documents filed under Act or regulations

All information or documents given to the Commissioner under the Act or these regulations must contain, or be filed with, the number of the plant variety right application or plant variety right (if any) that is the subject of the application, request, assertion, opposition, or other matter in respect of which the information or document is given.

Compare: LI 2014/275 r 15

17 Information or documents may be given by alternative delivery method

- (1) Despite regulation 13, the Commissioner may allow information or documents to be given to the Commissioner by an alternative delivery method listed in subclause (2) if the Commissioner is satisfied that a person is unable to access the case management facility because of any exceptional circumstances beyond the person's control.
- (2) **Alternative delivery method** means delivery by 1 or more of the following methods:
 - (a) in person:
 - (b) post:
 - (c) courier:
 - (d) electronic mail:
 - (e) fax.
- (3) The same rules that apply in respect of service of notices in section 147 of the Act apply to the giving of information and documents by post, electronic mail, or fax.

Compare: LI 2014/275 r 16

18 Electronic documents

To avoid doubt, any requirement in these regulations that a document must be in writing is satisfied if the document complies with section 222 of the Contract and Commercial Law Act 2017.

Compare: LI 2014/275 r 17

*Filing***19 Number of copies**

- (1) The Commissioner may require an additional copy, or additional copies, of any information or document that is filed.
- (2) The requirement in subclause (1) may include a requirement for 1 or more documents that are filed electronically to be provided on paper or in a different format.

Compare: LI 2014/275 r 18

20 Document filed when received in proper form

- (1) A document is filed when it is received in proper form.
- (2) A document is in proper form only if—
 - (a) it is legible; and
 - (b) it is accompanied by the prescribed fee, if any.

Compare: LI 2014/275 r 19

21 Filing date of document if not received on working day

If a document is received on a day that is not a working day, the document is treated as having been filed on the next working day.

Compare: LI 2014/275 r 20

*Requirements for documents***22 Documents must be in English or Māori**

- (1) All documents filed must be in English or Māori.
- (2) However,—
 - (a) a person who files a document in Māori must, if required by the Commissioner, file a verified translation within the time that the Commissioner specifies; and
 - (b) a person may, if it is necessary to do so, file a document that is not in English or Māori if the document is accompanied by a verified translation.

Compare: LI 2014/275 r 21

23 Signatures

- (1) In the following cases, a document must be signed for the purposes of these regulations as follows:
 - (a) in the case of a partnership, the document must—
 - (i) contain the full names of all partners, unless a list of the current partners has been filed; and

- (ii) be signed by a qualified partner or another person who has, to the Commissioner's satisfaction, authority to sign:
 - (b) in the case of a body corporate, the document must be signed by a director or senior manager who has, to the satisfaction of the Commissioner, authority to sign:
 - (c) in the case of an unincorporated association, the document may be signed by a person who appears to the Commissioner to be duly qualified.
- (2) To avoid doubt, a document may be signed in accordance with section 226 of the Contract and Commercial Law Act 2017.

Compare: LI 2014/275 r 22

Subpart 4—Addresses

24 Address for service must be given

- (1) The following persons must give the Commissioner an address for service at the time when the person first gives any information or a document to the Commissioner in respect of a matter:
- (a) an applicant:
 - (b) a PVR holder:
 - (c) an agent:
 - (d) any party to a proceeding or any person intending to be a party to a potential proceeding.
- (2) For the purpose of any communication with the Commissioner in the name of 2 or more persons with different addresses, the Commissioner may require 1 address for service to be given.

Compare: LI 2014/275 r 34

25 Communication address must be given

- (1) A person must give the Commissioner notice of a communication address at the time when the person first gives any information or a document to the Commissioner in respect of a matter.
- (2) For the purpose of any communication with the Commissioner in the name of 2 or more persons with different addresses, the Commissioner may require 1 communication address to be given.

Compare: LI 2014/275 r 35

26 Change of address notice must be given

- (1) A person who gives the Commissioner an address for service or a communication address must, if the address changes, give the Commissioner a notice of change of address as soon as practicable after the change occurs.

- (2) If the address of an agent changes, the agent must give the Commissioner a notice of change of address as soon as practicable after the change occurs.

Compare: LI 2014/275 r 36

27 Sufficiency of address

An address that is given to the Commissioner under these regulations must be sufficiently detailed to enable the Commissioner to contact the addressee at that address.

Compare: LI 2014/275 r 37

Subpart 5—Agents

28 Agent may act on behalf of principal for purposes of regulations

- (1) Subject to the scope of the agent’s authority, an agent may act for the agent’s principal (**X**) in any proceeding in accordance with these regulations or take any step (including the signing of documents) on X’s behalf under these regulations.
- (2) However, the Commissioner may in any case require that a document that must be signed for the purposes of these regulations be signed by the principal and not by the agent.

Compare: LI 2014/275 r 38

29 Commissioner may give notices to agent

- (1) The Commissioner satisfies any requirement under these regulations to give documents or notice to, or correspond with, a person by giving documents or notice to, or corresponding with, that person’s agent.
- (2) Subclause (1) does not apply to the extent that any written authority that is filed by the agent’s principal expressly excludes the authority of the agent for any of the matters specified in subclause (1).

Compare: LI 2014/275 r 39

30 Commissioner may require principal of agent to file authority with Commissioner in certain cases

- (1) This regulation applies if—
- (a) the Commissioner receives a communication from a person who refers to himself or herself in the communication as an agent (**A**) of a principal (**X**) and, at the time of the communication, the Commissioner does not have an authority in respect of A that complies with the requirements in subclause (3); or
 - (b) the Commissioner has an authority in respect of an agent that complies with the requirements in subclause (3) and the Commissioner receives a communication informing the Commissioner that the principal (**X**) has appointed a new agent (**A**).

-
- (2) The Commissioner may require X to file, within the specified time, a written authority in respect of A.
- (3) The written authority must—
- (a) be signed by X and not by an agent; and
 - (b) contain the following information:
 - (i) A's name and address for service; and
 - (ii) if A is authorised to act in respect of a particular PVR or PVR application, the number of the PVR or PVR application; and
 - (iii) a statement of any limitation on the authority of A to act on X's behalf.
- (4) In subclause (2),—
- (a) **specified time** means the time that the Commissioner specifies in the requirement given under subclause (2); and
 - (b) the specified time must be not less than 1 month after the date on which the Commissioner receives the communication referred to in subclause (1).

Compare: LI 2014/275 r 40

31 Commissioner must refuse to recognise certain persons as agent

- (1) The Commissioner must refuse to recognise as an agent in respect of any proceedings a person who neither resides nor carries on business in New Zealand or Australia.
- (2) The Commissioner may refuse to recognise a person as an agent—
- (a) who is suspended from practice before the Intellectual Property Office of New Zealand; or
 - (b) whose registration as a patent attorney is suspended or cancelled for the purposes of Part 6 of the Patents Act 2013; or
 - (c) whose name has been removed from or struck off the roll of barristers and solicitors under the provisions of the Lawyers and Conveyancers Act 2006, and has not been restored to the roll; or
 - (d) who is suspended from practice as a barrister or solicitor; or
 - (e) who has been convicted of an offence specified in Part 10 (except sections 293 to 305) of the Crimes Act 1961 or who has been convicted of an equivalent offence in another country.

Compare: LI 2003/187; LI 2014/275 r 41

32 Commissioner must notify refusal to recognise person as agent

If the Commissioner becomes aware that a person is not entitled to act as an agent, the Commissioner must, as soon as practicable, notify that person and that person's principal.

Compare: LI 2014/275 r 42

33 Notice to Commissioner of revocation or alteration of authority

- (1) A principal (**X**) must, as soon as practicable, give written notice to the Commissioner of the revocation or alteration of the authority of X's agent (**A**).
- (2) The notice must—
 - (a) be signed by X, and not by an agent; and
 - (b) contain the information set out in subclause (3).
- (3) The notice must contain the following information:
 - (a) X's name and address for service:
 - (b) A's name:
 - (c) if A is authorised to act in respect of a particular PVR or PVR application, the number of the PVR or PVR application:
 - (d) if A's authority is revoked, a statement to that effect:
 - (e) if A's authority is altered, a statement setting out—
 - (i) the alteration in authority; and
 - (ii) the matters for which A continues to have authority.
- (4) Notice to the Commissioner of the revocation or alteration of the authority of an agent is effective—
 - (a) if it complies with this regulation; and
 - (b) when it is received by the Commissioner.

Compare: LI 2014/275 r 43

34 Notice of revocation or alteration of authority may be given by agent

- (1) An agent (**A**) of a principal (**X**) may give written notice to the Commissioner of the alteration or revocation of A's authority as X's agent.
- (2) The notice must be signed by A and contain the information described in subclause (3).
- (3) The notice must contain the following information:
 - (a) X's name and address for service:
 - (b) A's name:
 - (c) if A is authorised to act in respect of a particular plant variety or plant variety application, the number of the plant variety or plant variety application:

- (d) if A's authority is revoked, a statement to that effect;
 - (e) if A's authority is altered, a statement setting out—
 - (i) the alteration in authority; and
 - (ii) the matters for which A continues to have authority.
- (4) Notice to the Commissioner of the alteration or revocation of the agent's authority is effective—
- (a) if it complies with this regulation; and
 - (b) when it is received by the Commissioner.

Compare: LI 2014/275 r 44

Part 2

Process for obtaining grant of plant variety rights and other matters

Subpart 1—PVR applications

PVR applications

35 Application for PVR

- (1) The prescribed manner for making a PVR application is as follows:
- (a) the application must be made in accordance with Part 1; and
 - (b) an application must contain, or be accompanied by, the following information:
 - (i) the information set out in section 36(2) of the Act;
 - (ii) the name and address of each breeder who is an applicant;
 - (iii) the nationality or principal place of business of each breeder who is an applicant.
- (2) If the name, address, nationality, or principal place of business of an applicant changes from that notified, the applicant must give the Commissioner a notice of the change as soon as practicable after the change occurs.

Compare: LI 2014/275 r 50

36 Colour photographs to be supplied with certain applications

- (1) This regulation applies to every plant variety that is fruit, an ornamental variety, or a vegetable (including a potato).
- (2) A PVR application for a variety of plant to which this regulation applies must be accompanied by—
- (a) a satisfactory photograph of all or part of a typical plant of the variety showing the variety's distinguishing features; or

- (b) 2 or more satisfactory photographs (each being a photograph of all or part of a typical plant of the variety) that together show the variety's distinguishing features.
- (3) A photograph is satisfactory if—
 - (a) it is a photograph based on plants propagated from the original plant or plant part; and
 - (b) it is clear enough and large enough to enable the subject matter to be easily identified.

Compare: SR 1988/101 r 5A

37 Quantities of propagating material to be provided with applications

- (1) A PVR application for a variety of a kind of plant described in column 1 of Schedule 3 must be accompanied by the quantity of propagating material specified (opposite the description) in column 2 of Schedule 4, together with the quantity, if any, of seed ears specified (opposite the description) in column 3 of Schedule 4.
- (2) The standard of purity and germination of the propagating material must be acceptable to the Commissioner.

38 Prescribed times for filing proposed denominations

- (1) For the purpose of section 36(2A) of the Act, the prescribed time for filing the proposed denomination for the plant variety with the Commissioner, is 3 months after the date of the application unless the Commissioner grants an extension to that date in accordance with subclause (2).
- (2) An applicant for a PVR may, before the expiry of the 3-month period referred to in subclause (1), request the Commissioner to extend that date by a specified period not exceeding 1 month, and the Commissioner may grant that request if the Commissioner considers it reasonable to do so in the circumstances.

39 Prescribed time for filing 1 or more alternative denominations

- (1) For the purpose of section 51(1) of the Act, the prescribed time for filing 1 or more alternative denominations for the plant variety is 3 months from the date of receiving notice from the Commissioner under section 51(1) of the Act unless the Commissioner grants an extension to that date in accordance with subclause (2).
- (2) An applicant for a PVR may, before the expiry of the 3-month period referred to in subclause (1), request the Commissioner to extend that period for a specified period not exceeding 1 month, and the Commissioner may grant that request if the Commissioner considers it reasonable to do so in the circumstances.

40 Variation of PVR application to alter the denomination

A variation notice under section 38(1) of the Act seeking to alter the denomination sought for a plant variety must—

- (a) contain a request to change the denomination; and
- (b) include the denomination to be altered; and
- (c) include the proposed replacement denomination; and
- (d) include a summary of the reasons why the applicant is proposing a new denomination.

41 Prescribed times for supply by applicant of propagating material or further information required by Commissioner

- (1) The prescribed time for an applicant for a PVR to comply with a request by the Commissioner under section 46(1) of the Act for propagating material is the time set by the Commissioner within the period beginning 1 month after the date of the Commissioner's request and ending on the day that is 2 years after the date of the request, unless that time is extended by the Commissioner under subclause (3).
- (2) The prescribed time for an applicant for a PVR to comply with a request for information under section 46(1A) of the Act for information is the time set by the Commissioner within the period beginning 1 month after the date of the Commissioner's request and ending on the day that is 1 year after the date of the request, unless that time is extended by the Commissioner under subsection (3).
- (3) An applicant for a PVR may before the expiry of the period referred to in subclause (1) or subclause (2), as the case requires, request the Commissioner to extend that time, and if the Commissioner considers it reasonable in the circumstances to do so the Commissioner may—
 - (a) in the case of a request relating to the period in subclause (1), extend the time on 1 or more occasions for a further period not exceeding 2 years on each extension;
 - (b) in the case of a request relating to the period in subclause (2), extend the time for a further period not exceeding 1 year.

42 Prescribed requirements under section 47(5) of Act

The prescribed requirements under section 47(5) of the Act for a growing trial are that the Commissioner must impose conditions to be complied with by those conducting the growing trial relating to—

- (a) the location and timing of the growing trial; and
- (b) the trial design; and
- (c) the varieties to be included in the growing trial; and
- (d) how the growing trial will be overseen and by whom:

- (e) any other conditions necessary to ensure that the growing trial is undertaken in a manner that is satisfactory to the Commissioner.

43 Reliance on report produced under section 47(2)(d) of Act

- (1) This regulation applies if the Commissioner decides that a growing trial is to be undertaken under section 47(2)(d) of the Act by or on behalf of an authority of another state.
- (2) If more than 1 report is produced in relation to the growing trial the Commissioner may decide, as the Commissioner thinks fit, which report to place reliance on.

44 Prescribed times for payment of growing trial and examination fees

- (1) The prescribed time for paying fees due under section 48(1) or (2) of the Act is 2 months after the Commissioner has requested payment under section 48(3), unless that time is extended under subclause (2).
- (2) An applicant for a PVR may, before the expiry of the period referred to in subclause (1), request the Commissioner to extend the period for payment of the fee, and the Commissioner may extend the time to a specified date, if the Commissioner is satisfied that there are exceptional circumstances that justify the extension.

Compare: LI 2014/275 r 93

45 Matters that must be included in notice of opposition

- (1) The prescribed manner in which a person may oppose the grant of a PVR under section 49(1) of the Act is by filing a notice of opposition that—
 - (a) must include the ground or grounds on which the grant of the PVR is opposed; and
 - (b) must be accompanied by a statement of case that sets out the facts on which the opponent relies and the relief sought.
- (2) The Commissioner must give the applicant a copy of the notice of opposition and statement of case.

Compare: LI 2014/275 r 92

46 Prescribed period within which notice of opposition may be filed

- (1) The prescribed period for filing a notice of opposition under section 49(2) of the Act is within 3 months after the date of the publication of the denomination in the journal, unless that period is extended under subclause (2).
- (2) A person wishing to oppose the proposed denomination may, before the end of the 3 month period referred to in subclause (1), request the Commissioner to extend that date by a specified period not exceeding 1 month, and the Commissioner may grant that request if the Commissioner considers it reasonable to do so in the circumstances.

- (3) The Commissioner must not extend the period for filing a notice of opposition if the request for extension is received after the period for filing the notice has expired.

Compare: LI 214/275 r 93

47 Counter-statement to notice of opposition

- (1) An applicant for a PVR must file a counter-statement within 2 months after receiving a copy of the notice of opposition and of the statement of case filed under section 49(1) of the Act.
- (2) The counter-statement must set out the grounds on which the opposition is contested.
- (3) If the applicant does not file a counter statement within the prescribed time the PVR application must be treated as having been abandoned.
- (4) The opponent may, within 4 months after receiving the copy of the counter-statement, file evidence in support of their case.
- (5) The applicant may file evidence in support of the applicant's case within 4 months after receiving the copy of the opponent's evidence or, if the opponent does not file any evidence, within 4 months after the expiry of the time within which the opponent's evidence might have been filed.
- (6) The opponent may, within 3 months after receiving the copy of the applicant's evidence, file evidence confined to matters strictly in reply.

Compare: LI 214/275 r 94

48 Prescribed times for supply by PVR holder of propagating material or further information required by Commissioner

- (1) The prescribed time for a PVR holder to comply with a request by the Commissioner under section 69(1) of the Act for propagating material is the time set by the Commissioner within the period beginning 1 month after the date of the Commissioner's request and ending on the day that is 1 year after the date of the request, unless that time is extended by the Commissioner under subclause (3).
- (2) The prescribed time for an applicant for a PVR or a PVR holder to comply with a request for information under section 69(2) of the Act for information is the time set by the Commissioner within the period beginning 1 month after the date of the Commissioner's request and ending on the day that is 2 years after the date of the request, unless that time is extended by the Commissioner under subsection (3).
- (3) The applicant or a PVR holder may before the expiry of the period referred to in subclause (1) or subclause (2), as the case requires, request the Commissioner to extend that period, and if the Commissioner considers it reasonable in the circumstances to do so the Commissioner may—

- (a) in the case of a request relating to the period in subclause (1), extend the time on 1 occasion for a period not exceeding 1 year:
- (b) in the case of a request relating to the period in subclause (2) extend the time on 1 or more occasions for a further period not exceeding 2 years on each request for an extension.

49 Request for direction under section 70 of Act

- (1) A request for a direction under section 70(2) of the Act must include—
 - (a) the full name and address of the person or persons in whose name or names the application is requested to proceed; and
 - (b) the nationality or principal place of business of the person or persons in whose name or names the application is requested to proceed; and
 - (c) a statement identifying how the person or persons are entitled to the PVR, an interest in the PVR, or an undivided share in the PVR; and
 - (d) either—
 - (i) a copy of the assignment or agreement that entitles the person or persons referred to in paragraph (a) to the PVR, an interest in the PVR, or an undivided share in the PVR; or
 - (ii) both—
 - (A) a statement setting out the particulars of any document that establishes the person's or persons' entitlement by operation of law to the PVR, an interest in the PVR, or an undivided share in the PVR, the document's date, the parties to the document, and how the entitlement is substantiated; and
 - (B) a copy of each document referred to in that statement.
- (2) The Commissioner may also require that the person who makes the request produce the original copy of the assignment, agreement, or other document and any other evidence.

Subpart 2—Transmission of PVRs or interests in PVRs

Registration of assignments and other interests in PVRs

50 Application under section 72 of Act

- (1) An application under section 72 of the Act must identify whether it is made under section 72(1) or (2) of the Act and must include—
 - (a) a statement identifying whether the PVR, share, or interest was acquired, disposed of, or conferred by assignment, transmission, operation of law, mortgage, or other means; and
 - (b) if registering an interest, the nature of the interest; and

- (c) a statement setting out the particulars of the document that establishes the entitlement to the PVR share, or interest, the document's date, the parties to the document, and how the entitlement is substantiated; and
 - (d) a copy of the document that establishes the entitlement.
- (2) The Commissioner may require that the original document referred to in an application be produced to the Commissioner.
 - (3) If an original document required by the Commissioner under subclause (2) is not in electronic form, regulation 13 does not apply to the production of that document.

Vesting of PVRs or PVR applications without probate or letters of administration

51 Application to vest PVR or PVR application for PVR probate or letters of administration

- (1) An application under section 74 of the Act to register or substitute a person (B) as a PVR holder or PVR applicant without requiring probate or letters of administration must include—
 - (a) the full name and address of B; and
 - (b) the nationality or principal place of business of B; and
 - (c) the full name of the deceased person (A) and identify whether A was the PVR applicant, or PVR holder; and
 - (d) a statement as to the circumstances and grounds on which the application is made.
- (2) The statement required by subclause (1)(d) must identify—
 - (a) whether A was intestate when A died; and
 - (b) the date on which A died; and
 - (c) the place where A died; and
 - (d) the country where A was domiciled when A died; and
 - (e) how B is entitled to obtain probate or letters of administration or is the personal representative of A; and
 - (f) how the interests of the creditors of A, and of all persons beneficially interested under A's will or on A's intestacy, will be adequately safeguarded if the action applied for is taken.
- (3) The Commissioner may require further evidence to be filed in support of the application.

Subpart 3—Cancellation and nullification of PVRs

Cancellation and nullification of PVRs

52 Application to Commissioner for cancellation or nullification of PVR

- (1) The manner in which a person may apply under section 80 to the Commissioner for the cancellation or nullification of a PVR granted under Act is that the application—
 - (a) must include the ground or grounds in section 76 of the Act on which the application is made; and
 - (b) must include a statement confirming that there are no relevant proceedings before the court; and
 - (c) must be accompanied by a statement of case setting out the facts upon which the person relies and the relief sought.
- (2) The Commissioner must give the PVR holder a copy of the application and of the statement of case.

53 Counter-statement to application and evidence for cancellation or nullification of PVR

- (1) The PVR holder must file a counter-statement to an application for cancellation or nullification of a PVR, within 2 months after receiving a copy of the application and of the statement of case, setting out the grounds on which the application for cancellation or nullification is contested.
- (2) The Commissioner may extend the time limit for filing a counter-statement by up to 2 months if—
 - (a) the PVR holder files an extension request no later than 2 months after the date on which the counter-statement is required to be filed; and
 - (b) the Commissioner is satisfied there are exceptional circumstances that justify the extension.
- (3) A time limit may be extended under subclause (2) only once.
- (4) The person who applied for cancellation or nullification (the **applicant**) may, within 4 months after receiving the copy of the counter-statement, file evidence in support of the applicant's case.
- (5) The PVR holder may file evidence in support of the holder's case within 4 months after receiving the copy of the applicant's evidence or, if the applicant does not file any evidence, within 4 months after the expiry of the time within which the applicant's evidence might have been filed.
- (6) The applicant may, within 3 months after receiving the copy of the PVR holder's evidence, file evidence confined to matters strictly in reply.

54 Procedure if no counter-statement to application for cancellation or nullification is filed

- (1) This regulation applies if the PVR holder fails to file a counter-statement to an application for cancellation or nullification within the period during which the counter-statement is required to be filed.
- (2) The applicant may file evidence in support of the applicant's case within 4 months after the time within which the PVR holder is required to file the counter-statement.
- (3) The Commissioner may determine the application for cancellation or nullification of the PVR after considering the application and any evidence filed in support of the application.

Subpart 4—Surrender of PVRs*Surrender of PVRs***55 Notice of offer to surrender PVR**

- (1) A notice of an offer by a PVR holder under section 85 of the Act to surrender a PVR must include—
 - (a) the reasons for making the offer; and
 - (b) full particulars of every relevant proceeding before the court.
- (2) In regulation 54, **opponent** means the person who gives to the Commissioner a notice of opposition to the surrender under section 85 of the Act.

56 Opposition to surrender of PVR

- (1) The period prescribed for the purpose of section 85(3) of the Act for giving to the Commissioner a notice of opposition to the surrender of a PVR is 2 months after the publication in the journal of the offer to surrender the PVR.
- (2) The notice of opposition—
 - (a) must include the opponent's reasons for opposing the surrender of the PVR; and
 - (b) must be accompanied by a statement of case setting out the opponent's interest in the surrender, the facts upon which the opponent relies, and the relief sought.
- (3) The Commissioner must give a copy of the notice of opposition and of the statement of case to the PVR holder.

57 PVR holder must file counter-statement

- (1) The PVR holder must file a counter-statement within 2 months after receiving a copy of the notice of opposition and of the statement of case under regulation 56.

- (2) The counter-statement must set out the grounds on which the opposition is contested.
- (3) If the PVR holder does not file a counter-statement within the 2-month period under subclause (1), the PVR holder must be treated as having abandoned the holder's offer to surrender the PVR.

Compare: LI 214/275 r 108

58 Filing of evidence

- (1) The opponent may, within 2 months after receiving the copy of the counter-statement under regulation 57, file evidence in support of the opponent's case.
- (2) The PVR holder may file evidence in support of the holder's case within 2 months after receiving the copy of the opponent's evidence or, if the opponent does not file any evidence, within 2 months after the expiry of the time within which the opponent's evidence might have been filed under subclause (1).
- (3) The opponent may, within 1 month after receiving the copy of the PVR holder's evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply.

Compare: LI 214/275 r 109

Subpart 5—Restoration of lapsed applications and cancelled PVRs

Restoration of lapsed PVR applications

59 Request for restoration of lapsed PVR applications

- (1) A request under section 87 of the Act for an order to restore a lapsed PVR application must include evidence in support of the request.
- (2) The applicant may file further evidence in support of the request within 3 months after the request is made.
- (3) The Commissioner may require the applicant to file further evidence in support of the request.
- (4) If the Commissioner requires further evidence under subclause (3), the applicant must file that evidence within 3 months after the date that the request for restoration is made.

Compare: LI 2014/275 r 116

60 When request for restoration of lapsed PVR application may be made

- (1) The prescribed period for the purpose of section 88(1)(a)(ii) of the Act, within which an application under section 87 of the Act may be made is,—
 - (a) in the case of a PVR application that lapsed under section 46(4)(a) of the Act, 12 months after the date on which the application lapsed; and

- (b) in the case of a PVR application that lapsed under section 48(5)(a) of the Act, 12 months after the date on which the growing trial or examination fee under section 48 was due.
- (2) If the application under section 87 of the Act is made after the period referred to in subclause (1)(a) or (b), as the case requires, the request must be accompanied by—
 - (a) the information referred to in section 88(1)(b)(i) and (ii); and
 - (b) the evidence in support of the extension.
- (3) The applicant may file further evidence in support of an extension under section 88(2) of the Act at any time within 3 months after making the request under section 87 of the Act.
- (4) If the Commissioner requires the applicant to file further evidence under section 92(2A) of the Act, the applicant must file that evidence within 3 months after the date that the request for restoration is made.
- (5) The Commissioner may extend the period prescribed by subclause (3) by up to 1 month, on request by the applicant made before the end of that prescribed period.

Compare: LI 2014/275 r 117

61 Opposition to restoration of PVR application

- (1) The period prescribed for the purpose of section 91(2)(b) of the Act for giving notice to the Commissioner of opposition to an order being made under section 93 of the Act is 2 months after the date on which the Commissioner publicly notifies the application under section 90(2) of the Act.
- (2) The notice of opposition—
 - (a) must identify the ground or grounds in section 91(1) of the Act that apply; and
 - (b) must be accompanied by a statement of case setting out the facts upon which the opponent relies.
- (3) The Commissioner must give a copy of the notice of opposition and statement of case to the applicant.
- (4) In this regulation and regulation 63, **opponent** means the person who has given notice to the Commissioner of opposition to an order being made under section 93(1)(a) of the Act.

Compare: LI 2014/275 r 118

62 Applicant must file counter-statement

- (1) The applicant must file a counter-statement with the Commissioner within 2 months after receiving a copy of the notice of opposition and of the statement of case under regulation 61.

- (2) The counter-statement must set out the grounds on which the opposition is contested.
- (3) If the applicant does not file a counter-statement within the 2-month period under subclause (1), the applicant must be treated as having abandoned the applicant's request for restoration.

Compare: LI 2014/275 r 119

63 Filing of evidence

- (1) The opponent may, within 2 months after receiving the copy of the counter-statement under regulation 62, file evidence in support of the opponent's case.
- (2) The applicant may file evidence in support of the applicant's case within 2 months after receiving the copy of the opponent's evidence or, if the opponent does not file any evidence, within 2 months after the expiry of the time within which the opponent's evidence might have been filed under subclause (1).
- (3) The opponent may, within 1 month after receiving the copy of the applicant's evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply.

Compare: LI 2014/275 r 120

64 Protection of persons who use plant variety if Commissioner restores lapsed PVR application

- (1) Every order under section 93(1)(a) of the Act must contain or be subject to the conditions prescribed in this regulation.
- (2) No action or other proceeding may be commenced or prosecuted, nor any damages or account of profits recovered, in respect of exploitation of a plant variety that is the subject of the PVR application and that a person referred to in section 100(2) of the Act used or took definite step to use, on the ground that the person has infringed, or infringes the PVR.
- (3) However, subclause (2) applies only to the extent that the person—
 - (a) continues to act in a manner that is consistent with, but does not go beyond, the way in which the person exploited the plant variety; or
 - (b) continues to act in a manner that is consistent with the definitive steps that were taken to exploit the plant variety so as to complete those steps; or
 - (c) uses the result of the completion of the definitive steps in a manner that is consistent with, but does not go beyond, what was contemplated by those steps in order to exploit the plant variety.
- (4) To avoid doubt, the protection in subclause (2) applies to activities undertaken at any time after the PVR application lapses.

Compare: LI 2014/275 r 121

*Restoration of cancelled PVRs***65 Manner in which request to restore cancelled PVR may be made**

- (1) A request under section 94(2) of the Act for the restoration of a cancelled PVR must include the date the renewal fee was due and evidence in support of the request.
- (2) The former PVR holder may file further evidence in support of the request within 3 months after the date that the request is made.
- (3) If the Commissioner requires further evidence under section 99(2A) of the Act, the former PVR holder must file further evidence in support of the request within 3 months after the date that the request for restoration is given.
- (4) In this regulation and regulations 64 to 67, **former PVR holder** means a person referred to in section 95 of the Act who makes a request for an order under section 94(2) of the Act.

Compare: LI 2014/275 r 110

66 When request for restoration of cancelled PVR may be made

- (1) For the purpose of section 95(2)(a) of the Act, the prescribed period within which a request under section 94(2) of the Act may be made is 1 year after the date on which the renewal fee becomes due.
- (2) If the request under section 94(2) of the Act is made after the period referred to in subclause (1) expires, the request must be accompanied by—
 - (a) the information required by section 95(2)(b)(ii).
 - (b) the evidence in support of an extension under section 95(3) of the Act.
- (3) The former PVR holder may file further evidence in support of an extension under section 95(3) of the Act at any time within 3 months after making the request under section 94(2) of the Act.
- (4) The Commissioner may extend the period prescribed by subclause (3) by up to 1 month, on request by the former PVR holder made before the end of that prescribed period.

Compare: LI 2014/275 r 111

67 Opposition to restoration of cancelled PVR

- (1) For the purpose of section 98(2)(b) of the Act, the prescribed period within which notice of opposition to an order being made under section 94(2) of the Act may be given to the Commissioner is 2 months after the date on which the request made in accordance with sections 94 of the Act is published in the journal under section 145 of the Act.
- (2) The notice of opposition—
 - (a) must identify why the failure to comply with section 86(1) is believed to have been intentional; and

- (b) must be accompanied by a statement of case setting out the facts upon which the opponent relies.
- (3) The Commissioner must give a copy of the notice of opposition and of the statement of case to the PVR holder.
- (4) In this regulation and regulation 69, **opponent** means the person who gives notice to the Commissioner of opposition to an order being made under section 94(2) of the Act.

Compare: LI 2014/275 r 112

68 Former PVR holder must file counter-statement

- (1) The former PVR holder must file a counter-statement within 2 months after receiving a copy of the notice of opposition and of the statement of case under regulation 67.
- (2) The counter-statement must set out the grounds on which the opposition is contested.
- (3) If the former PVR holder does not file a counter-statement within the 2-month period under subclause (1), the former holder must be treated as having abandoned their request for restoration of the PVR.

Compare: LI 2014/275 r 113

69 Filing of evidence

- (1) The opponent may file evidence in support of the opponent's case within 2 months after receiving the copy of the counter-statement under regulation 68.
- (2) The former PVR holder may file evidence in support of their case within 2 months after receiving the copy of the opponent's evidence or, if the opponent does not file any evidence, within 2 months after the expiry of the time within which the opponent's evidence might have been filed under subclause (1).
- (3) The opponent may file further evidence within 1 month after receiving the copy of the former PVR holder's evidence, but only if the further evidence is confined to matters strictly in reply.

70 Protection of persons who use plant variety if Commissioner restores lapsed PVR

- (1) Every order under section 94(2) of the Act must contain or be subject to the provisions prescribed in this regulation.
- (2) No action or other proceeding may be commenced or prosecuted, nor any damages or account of profits recovered, in respect of the use of a plant variety that is the subject of the application and a person referred to in section 100(2) of the Act used, or took definite steps to use, on the ground that the person has infringed, or infringes, the PVR.
- (3) However, subclause (2) applies only to the extent that the person—

- (a) continues to act in a manner that is consistent with, but does not go beyond, the way in which the person used the PVR; or
 - (b) continues to act in a manner that is consistent with the definitive steps that were taken to use the PVR so as to complete those steps; or
 - (c) uses the result of the completion of the definitive steps in a manner that is consistent with, but does not go beyond, what was contemplated by those steps in order to use the PVR.
- (4) To avoid doubt, the protection in subclause (2) applies to activities undertaken at any time after the PVR ceases to have effect.

Compare:

Subpart 6—Compulsory licences

Compulsory licences

71 Application for compulsory licence to exercise PVR

- (1) An application under section 102(1) of the Act for a compulsory licence must—
- (a) request the grant of a compulsory licence; and
 - (b) set out the names and address of the applicant; and
 - (c) set out the information specified in section 105(b)(i) to (iv) of the Act; and
 - (d) set out the reasons why a compulsory licence is sought.
- (2) The applicant and the Commissioner must send a copy of the application to the PVR holder of the PVR to which the application relates.

72 Procedure following application for compulsory licence

- (1) A PVR holder may within 2 months after receiving from the Commissioner a copy of the application for a compulsory licence, file a counter-statement with the Commissioner.
- (2) The counter-statement must set out the grounds on which the application for a compulsory licence is opposed.
- (3) If a counter-statement is received, the Commissioner must send a copy of it to the applicant.
- (4) If no counter-statement is received from the PVR holder, the Commissioner must invite the applicant to file evidence within 2 months of receiving the counter statement.

73 Time for applicant to comply with request under section 107(1) of Act

- (1) The applicant must comply with a request for further information by the Commissioner under section 107(1) of the Act within 2 months of the date of the Commissioner's request unless that period is extended under subclause (2).
- (2) The Commissioner may on 1 occasion, extend the time referred to in subclause (2) on the application of the applicant made before the expiry of the period, for a period of up to 3 months, if the Commissioner is satisfied that the extension is justified in the circumstances.

74 Filing of evidence

- (1) The applicant may, within 2 months after receiving the copy of the counter-statement under regulation 72, file evidence in support of the applicant's case.
- (2) If the applicant fails to file evidence within 2 months of receiving a counter-statement under regulation 72 or within 2 months after receiving an invitation from the Commissioner to file evidence, their application is deemed to have been abandoned.
- (3) The PVR holder may file evidence in support of the holder's case within 2 months after receiving the copy of the applicant's evidence or, if the applicant does not file any evidence, within 2 months after the expiry of the time within which the applicant's evidence might have been filed under subclause (1) unless the time for doing so is extended under subclause (5).
- (4) The applicant may, within 1 month after receiving the copy of the PVR holders evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply, unless the time for doing so is extended under subclause (5).
- (5) The Commissioner may extend any of the periods referred to in subclauses (1) to (4) on one occasion if satisfied that the extension is justified in the circumstances, on the application of the applicant for a compulsory licence or the PVR holder, as the case requires, made at any time before the expiry of the period.

75 Amendment or revocation of compulsory licence

An application for the amendment or revocation of a compulsory licence under section 111 of the Act must—

- (a) set out the names and address of the applicant:
- (b) their address for service (if different from the addresses for service already held by the Commissioner):
- (c) sufficient information to enable the Commissioner to identify the compulsory licence to which the application relates to.

Subpart 7—Miscellaneous

PVR register

76 PVR register must contain record of grant of PVR

The Commissioner must ensure that the information required by section 130(1) of the Act is entered in the PVR register in respect of a PVR in force in New Zealand as soon as practicable after the date that a PVR is granted or, in the case of information filed after the grant of a PVR, as soon as practicable after the information is filed.

Compare: LI 2014/275 r 128

77 Other PVR information that must be entered in PVR register

The information that must be entered in the PVR register under section 130(1)(g) of the Act is all documents that are open to public inspection (for example, *see* section 45 of the Act).

Compare: LI 2014/275 r 129

78 Payment of renewal fees must be entered in PVR register

The Commissioner must enter, under section 130(1)(g) of the Act, the following information in the PVR register when the Commissioner issues a certificate of payment under regulation 12:

- (a) that a renewal fee has been paid:
- (b) the date of payment.

Compare: LI 2014/275 r 130

Searches of PVR register and obtaining PVR information

79 Search of PVR register

- (1) The PVR register must be available for access and searching by members of the public at all times unless subclause (2) applies.
- (2) The Commissioner may refuse access to the PVR register or suspend its operation, in whole or in part,—
 - (a) if the Commissioner considers that it is not practical to provide access to the PVR register; or
 - (b) to enable maintenance of the PVR register; or
 - (c) in response to technical difficulties in the maintenance or operation of the PVR register; or
 - (d) to ensure the security or integrity of the PVR register.

Compare: LI 2014/275 r 131

80 Information concerning PVR or PVR application that may be requested

A request under section 132(c) of the Act for information relating to a PVR or PVR application may be made—

- (a) as to when a PVR application lapsed or was withdrawn; and
- (b) as to when a PVR has been granted; and
- (c) as to when a renewal fee has been paid; and
- (d) as to when a PVR has expired; and
- (e) as to when an entry has been made in the PVR register or an application has been made for the making of the entry; and
- (f) as to when any application is made or action taken involving an entry in the PVR register or publication in the journal.

Compare: LI 2014/275 r 132

81 How request for PVR information and certified copies must be made

A request under section 132 of the Act must contain the purpose for which copies of documents (if sought) or information is required.

Compare: LI 2014/275 r 133

*Changes to PVR register and other official documents***82 Application to correct other persons' mistakes in PVR register, etc**

- (1) An application under section 135 of the Act for a correction of an error or omission must include—
 - (a) a statement that—
 - (i) identifies where the error or omission is thought to have been made; and
 - (ii) includes either a description of the error or omission or a copy of the entry in the PVR register, PVR, PVR application, or other document (as the case requires) with the error or omission clearly identified; and
 - (b) evidence (if any) in support of the application.
- (2) The Commissioner may require the applicant to file further evidence in support of the application.
- (3) If the Commissioner requires further evidence under subclause (2), the applicant must file that evidence within 3 months after the date that the application is made.
- (4) In this regulation and in regulations 83 to 86,—
applicant means the person who applied for the correction under section 135(2) of the Act

opponent means the person who gives a notice of opposition under section 135(5) of the Act.

Compare: LI 2014/275 r 136

83 Opposition to proposed correction

- (1) The period prescribed for the purpose of section 135(5) of the Act is 2 months after the date on which the proposed correction is published in the journal.
- (2) A notice of opposition under section 135(5) of the Act must include—
 - (a) sufficient detail to identify the proposed correction that is opposed; and
 - (b) the grounds on which the proposed correction is opposed.
- (3) The notice of opposition must also be accompanied by a statement of case setting out the facts relied on in support of the opposition and the relief sought.
- (4) The Commissioner must give a copy of the notice of opposition and of the statement of case to the applicant.

Compare: LI 2014/275 r 137

84 Applicant must file counter-statement

- (1) The applicant must file a counter-statement within 2 months after receiving a copy of the notice of opposition under section 135(5)(a) of the Act and of the statement of case under regulation 83.
- (2) The counter-statement must set out the grounds on which the opposition is contested.
- (3) If the applicant does not file a counter-statement within the 2-month period under subclause (1), the applicant must be treated as having abandoned the applicant's application for correction.

Compare: LI 2014/275 r 138

85 Filing of evidence

- (1) The opponent may, within 4 months after receiving the copy of the counter-statement filed under regulation 84, file evidence in support of the opponent's case.
- (2) The applicant may file evidence in support of the applicant's case within 4 months after receiving the copy of the opponent's evidence or, if the opponent does not file any evidence, within 4 months after the expiry of the time within which the opponent's evidence might have been filed under subclause (1).
- (3) The opponent may, within 3 months after receiving the copy of the applicant's evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply.

Compare: LI 2014/275 r 139

86 Opposition to Commissioner-initiated correction

- (1) Any person may oppose a correction proposed by the Commissioner on the Commissioner's own initiative under section 135 of the Act by filing a notice within 2 months after the date on which the proposed correction is published in the journal.
- (2) The notice must include—
 - (a) sufficient detail to identify the proposed correction that is opposed; and
 - (b) the grounds on which the proposed correction is opposed.
- (3) The notice must also be accompanied by a statement of case setting out the facts relied on in support of the opposition and the relief sought.
- (4) The opponent may, within 4 months after filing the notice, file evidence in support of his or her case.
- (5) Following consideration of the notice and any evidence filed, the Commissioner must notify the opponent of the decision he or she intends to make.

Compare: LI 2014/275 r 140

87 Notice of application to court to correct PVR register

- (1) Any notice given to the Commissioner under section 137(3) of the Act must include a copy of the application for correction.
- (2) The Commissioner must enter a notice of application under section 137(3) of the Act in the PVR register as soon as practicable after receiving the notice.

Compare: 2014/275 r 141

88 Notice of order of court to correct PVR register

Any notice served on the Commissioner under section 137(5) of the Act must include—

- (a) a copy of the order of the court; and
- (b) the date or dates by which action is required to be taken by the Commissioner or the applicant for correction in respect of the order.

Compare: LI 214/275 r 142

*Journal***89 Matters requested to be published in Journal**

- (1) The Commissioner must publish in the Journal kept under section 145 of the Act, in respect of every application,—
 - (a) the applicant's name and address:
 - (b) the date of the application:
 - (c) the genus or species of the variety:
 - (d) every denomination that—

- (i) has been proposed for the variety; and
 - (ii) the Commissioner has not immediately indicated that the Commissioner will not approve:
 - (e) if the application lapses or is withdrawn, the fact that it has lapsed or been withdrawn.
- (2) The Commissioner must publish in the Journal, in respect of every grant,—
- (a) the name and address for service of the PVR holder;
 - (b) the genus or species to which the variety belongs;
 - (c) the denomination the Commissioner has approved for the variety;
 - (d) the date of the grant.
- (3) The Commissioner must publish in the Journal—
- (a) the fact that a PVR has expired or has been cancelled or surrendered; and
 - (b) the day the expiry, or cancellation, or surrender took effect.

Evidence

90 Form of evidence

If these regulations require or permit evidence to be filed, it must be by statutory declaration or affidavit unless otherwise expressly provided in these regulations.

Compare: LI 2014/275 r 144

Amendment of documents

91 Amendment of documents

- (1) In any proceedings before the Commissioner, the Commissioner may, if they think fit,—
- (a) allow any document filed in the proceedings to be amended if no express provision is made in the Act or these regulations for the amendment of the document; and
 - (b) correct any irregularity in procedure.
- (2) Any action taken by the Commissioner under this regulation may be on any terms as they may direct.

Compare: LI 2014/275 r 145

*Miscellaneous***92 Power of Commissioner to waive requirements in exceptional circumstances**

- (1) The Commissioner may, in exceptional circumstances, waive a requirement in Part 1 or regulation 35, for a person to do anything, on production of any evidence that the Commissioner thinks fit.
- (2) The Commissioner may grant the waiver even if the time has expired for doing the thing.
- (3) A waiver is granted by giving notice to the persons known to the Commissioner to be affected by the waiver, and may be on any terms that the Commissioner thinks fit.

Compare: LI 2014/275 r 149

93 Power to waive requirements for PVR applications temporarily

- (1) The Commissioner may allow a PVR application to be filed that is not made in accordance with Part 1 or regulation 35, but only if that the applicant takes any action necessary to comply with the relevant provision as soon as practicable after the application is filed.
- (2) If the PVR application is not amended or other action is not taken to comply with the relevant provision as soon as practicable after filing the application or specification, the application must be treated as if it had been abandoned unless the Commissioner waives compliance under regulation 92.

Compare: LI 2014/275 r 150

94 Maintenance of certain records

The Commissioner must maintain electronic copies of all other information or documents associated with a PVR application or PVR, including filing dates, priority dates, and the names of applicants and PVR holders, that are filed under the Act or these regulations.

Compare: LI 2014/275 r 151

Part 3

Miscellaneous

Subpart 1—Procedural and evidential requirements for proceedings before Commissioner

*Proceedings to which this subpart applies***95 Application of this subpart**

This subpart applies to the following proceedings:

- (a) a proceeding that is commenced by the filing of any of the following documents:
- (i) a notice of opposition under section 49 of the Act to the grant of a PVR:
 - (ii) an application to the Commissioner for the nullification or cancellation of a PVR under section 67(1) or section 80(1); or
 - (iii) an offer to surrender a PVR under section 85(1):
 - (iv) a notice of opposition to an offer to surrender a PVR under section 85(1):
 - (v) an application under section 87 to restore a lapsed PVR:
 - (vi) a notice of opposition to the restoration of a lapsed PVR under section 91 of the Act:
 - (vii) an application for the restoration of a cancelled PVR under section 94(2) of the Act:
 - (viii) a notice of opposition to an application for the restoration of a cancelled PVR under section 94(2) of the Act:
 - (ix) an application for a compulsory licence under section 105 of the Act:
 - (x) an application for amendment or revocation of a compulsory licence under section 101 of the Act:
- (b) a hearing under section 118 of the Act before the exercise of the Commissioner's discretion.

Compare: LI 2014/275 r 152

Documents filed in proceedings

96 Extra information that must be contained in documents filed in proceedings

- (1) A document, including written evidence, or bundle of documents filed in a proceeding must contain the following information:
- (a) the name and address for service of the person filing the document; and
 - (b) if that person has an agent, the agent's name; and
 - (c) the number of the PVR application or PVR that is the subject of the proceeding.
- (2) Every document referred to in regulation 95(a), and every statement of case and counter-statement, that is filed in a proceeding must be signed by the person giving the information or document or on whose behalf the information or document is given (for example, the applicant or the opponent).

Compare: LI 2014/275 r 153

*Hearing before exercise of Commissioner's discretion***97 Hearing before exercise of Commissioner's discretion**

- (1) This regulation applies if section 118 of the Act requires the Commissioner to give a person (A) a reasonable opportunity to be heard before exercising a discretionary power under the Act or these regulations.
- (2) The Commissioner must notify A of the decision that the Commissioner proposes to make, and the reasons for the decision (if not already given), before exercising the discretionary power.
- (3) If A wishes to be heard before the discretionary power is exercised, A must file a notice within 10 working days after receiving that notification from the Commissioner.
- (4) The notice must state the matter in respect of which A seeks a hearing and be signed by A.

Compare: LI 2014/275 r 154

*Case management***98 Commissioner may require parties to attend case management conference**

- (1) At any stage in a proceeding, the Commissioner may, for the purpose of securing the just, speedy, and inexpensive determination of the proceeding, give a direction requiring the parties to attend a case management conference to review the proceeding and the steps that have been or must still be taken.
- (2) The Commissioner must give each party notice of the conference at least 10 working days before the conference.
- (3) The parties may attend in person or by a telecommunication link that is acceptable to the Commissioner.

Compare: LI 2014/275 r 155

99 Commissioner may give directions

- (1) At any stage in a proceeding, the Commissioner may give directions that are consistent with the Act and these regulations requiring a party to do things to secure the just, speedy, and inexpensive determination of the proceeding within a time limit specified by the Commissioner.
- (2) Without limiting the generality of the directions that may be given, the Commissioner may—
 - (a) fix the time by which a step in the proceeding must be taken; and
 - (b) specify the steps that must be taken to prepare the proceeding for a hearing; and
 - (c) direct how the hearing of the proceeding is to be conducted; and

- (d) require parties to use their best endeavours to agree on how information or evidence that may be confidential or privileged is to be treated; and
 - (e) give directions about how information that may be confidential or privileged is to be treated if the parties have not been able to reach an agreement within the time limit specified by the Commissioner; and
 - (f) require parties to file copies of documents; and
 - (g) require parties to provide other parties to the proceeding with copies of documents; and
 - (h) require parties to file better or further particulars; and
 - (i) require parties to provide other parties to the proceedings with better or further particulars.
- (3) The Commissioner may give the direction on the Commissioner's own initiative or on the application of any party to the proceeding.

Compare: LI 2014/275 r 156

100 Parties must comply with Commissioner's directions

All parties to a proceeding must comply with a direction given by the Commissioner under this subpart.

Compare: LI 2014/275 r 157

101 Non-compliance with Commissioner's directions

- (1) If a party (**party A**) fails to comply with a direction given by the Commissioner under this Part (**non-compliance**),—
- (a) the Commissioner must, as soon as practicable,—
 - (i) request party A to provide an explanation for party A's non-compliance to the Commissioner and to the opposite party within a time limit specified by the Commissioner; and
 - (ii) in that request, advise party A of the potential consequences of non-compliance; and
 - (b) the opposite party may provide comments on the explanation to the Commissioner within a time limit specified by the Commissioner; and
 - (c) after considering the explanation (if any) and comments from the opposite party (if any), the Commissioner must—
 - (i) consider whether party A has a reasonable excuse for party A's non-compliance; and
 - (ii) notify both parties of the decision that the Commissioner intends to make.
- (2) The notification referred to in subclause (1)(c)(ii) must also—
- (a) advise the parties that either party may request a hearing concerning the non-compliance; and

- (b) specify a period during which a party may request a hearing concerning the non-compliance, being a period of not less than 10 working days after the party receives the notification.
- (3) The Commissioner must, as soon as practicable, hold a hearing concerning the non-compliance if a party requests it, and in that case the Commissioner must make a decision only after holding a hearing.
- (4) If the Commissioner's decision is that party A has not satisfied the Commissioner that party A has a reasonable excuse for party A's non-compliance, the Commissioner may,—
 - (a) extend the period for party A to comply with the direction; or
 - (b) modify, or waive compliance with, the direction; or
 - (c) direct that party A take no further step in the proceeding.
- (5) The Commissioner must notify both parties of his or her decision and any orders made under subclause (4) as soon as practicable.

Compare: LI 2014/275 r 158

Halt in proceedings

102 Commissioner may halt proceeding

- (1) The Commissioner may halt a proceeding, if the Commissioner thinks it appropriate, on the application of a party or on the Commissioner's own initiative.
- (2) The Commissioner may halt the proceeding for the period and on the terms that the Commissioner thinks appropriate, but must not halt the proceeding for more than 6 months.
- (3) The Commissioner may halt the proceeding for further periods, but on each occasion for no more than 6 months.
- (4) The Commissioner may recommence the proceeding at any time while the proceeding is halted.

Compare: LI 2014/275 r 159

Consolidation of proceedings

103 Commissioner may consolidate proceedings

The Commissioner may require that 2 or more proceedings be consolidated on terms that the Commissioner thinks appropriate, or may require them to be heard at the same time or one after the other, or may require any of them to be halted until after the determination of any other of them, if the Commissioner is satisfied that—

- (a) a common question of law or fact arises in both or all of them; or
- (b) the proceedings relate to—
 - (i) allegedly identical plant varieties; or

- (ii) PVRs with the same, or related, owners; or
- (c) for any other reason it is desirable to require consolidation of proceedings under this regulation.

Compare: LI 2014/275 r 160

Extension of time limits in proceedings

104 Commissioner may extend time limits in proceedings

- (1) The Commissioner may extend a time limit prescribed by these regulations for filing information or a document, or taking a step, in a proceeding—
 - (a) for a period not exceeding 3 months if the Commissioner is satisfied that the extension is reasonable in the circumstances; or
 - (b) for a period longer than 3 months, as specified by the Commissioner, if the Commissioner is satisfied that there are genuine and exceptional circumstances that justify the extension.
- (2) However, subclause (1) does not apply in any of the following circumstances:
 - (a) if the time limit for filing a counter-statement has already been extended under regulation 53(2):
 - (b) in respect of the time limit prescribed for filing a notice of opposition of a kind referred to in regulation 95(a):
 - (c) in respect of the time limit prescribed by regulation 97(3) for filing a request for a hearing under section 118 of the Act before the exercise of the Commissioner's discretion:
 - (d) if the time limit for filing the information or document or taking the step has already expired before the extension request is filed.
- (3) An extension is granted by giving notice to the person filing the information or document or taking the step and to any other parties to the proceeding, and may be on any terms that the Commissioner thinks fit.
- (4) More than 1 extension may be granted under subclause (1)(a) but only if the total period of those extensions does not exceed 3 months.
- (5) An extension may be granted under subclause (1)(b) even if the period has already been extended under subclause (1)(a).

Compare: LI 2014/275 r 161

Evidence

105 Evidence restricted to particulars filed

A party to a proceeding may only file evidence in the proceeding that relates to the particulars filed by that party or any other party to the proceeding.

Compare: LI 2014/275 r 162

*Procedural and evidential requirements***106 Supply of documents for use of Commissioner**

- (1) Copies of information or documents referred to in a proceeding to which this Part applies, or in any statement or evidence filed in connection with that proceeding, must be filed, unless the Commissioner directs otherwise.
- (2) If a other document in a foreign language is referred to, a verified translation of the document must be filed.

Compare: LI 2014/275 r 163

107 Party filing documents must copy documents to opposite party

- (1) A party who files information or a document (including evidence) in a proceeding to which this Part applies must, as soon as practicable, send copies of the information or document to the opposite party and to any party intervening.
- (2) However, copies of information or a document (including evidence) filed in a proceeding that include confidential information must be sent to the opposite party and any party intervening as agreed between the parties or, if agreement cannot be reached, in the manner directed by the Commissioner.
- (3) Despite subclause (2), the parties may agree, or the Commissioner may direct, that any information or document that is subject to a privilege recognised by Part 2 of the Evidence Act 2006 may not be sent to the other party.

Compare: LI 2014/275 r 164

108 Evidence out of time

- (1) A party to a proceeding must not file evidence after the prescribed time unless the party has applied to the Commissioner for permission to file it and the Commissioner allows it.
- (2) The Commissioner may allow the evidence to be filed only if—
 - (a) the Commissioner considers that there are genuine and exceptional circumstances that justify filing the evidence; or
 - (b) the evidence could not have been filed earlier.
- (3) In this regulation, **prescribed time** means, in relation to a proceeding to which this regulation applies, the time prescribed in these regulations by which the evidence or type of evidence must be filed.

Compare: LI 2014/275 r 165

109 Application for permission to file evidence out of time

- (1) The application for permission to file evidence out of time must—
 - (a) be in writing; and
 - (b) be signed by the party applying for permission; and
 - (c) contain the information in subclause (2).

- (2) The application must contain the following information:
 - (a) the nature of the evidence and whether it is evidence in chief or evidence confined to matters strictly in reply; and
 - (b) an explanation why the evidence could not have been filed earlier; and
 - (c) any other ground or grounds for making the application.
- (3) The Commissioner must notify the opposite party of the application, and the opposite party may make submissions to the Commissioner within the time specified by the Commissioner.
- (4) The Commissioner must notify the parties of the decision that the Commissioner intends to make on the application.
- (5) That notification must—
 - (a) specify the ground or grounds on which the Commissioner intends to reject or accept the application; and
 - (b) advise the parties that either party may request a hearing; and
 - (c) specify a period of not less than 1 month after the date of notification for a party to request a hearing; and
 - (d) advise the parties that the Commissioner will decide the application at the end of that period if a party has not requested a hearing.
- (6) The Commissioner must, as soon as practicable, hold a hearing if the applicant requests it unless regulation 112(3) applies.

Compare: LI 2014/275 r 166

110 Right to file evidence in reply if evidence in chief permitted out of time

If a party is permitted under regulations 108 and 109 to file evidence in chief out of time, the opposite party may file evidence confined to matters strictly in reply within 1 month after the date of being notified by the Commissioner that the evidence out of time will be admitted in the proceeding.

Compare: LI 2014/275 r 167

111 Evidence from another proceeding

- (1) The Commissioner may in a proceeding, at the request of a party to the proceeding, accept evidence that the party has filed in an earlier or existing proceeding.
- (2) Any evidence that is accepted for filing under subclause (1) does not have to comply with regulation 96(2).

Compare: LI 2014/275 r 168

Subpart 2—Conduct of hearings and related matters

Hearings

112 Form of hearing

- (1) A hearing may be—
 - (a) a hearing by appearance, that is, the appearance of a party before the Commissioner, whether in person or by telecommunication link acceptable to the Commissioner; or
 - (b) a hearing by submissions, that is, the consideration by the Commissioner of written submissions filed by a party and a review of the other documents filed in the proceedings, without an appearance; or
 - (c) a hearing on the papers, that is, a review of the documents filed in the proceeding.
- (2) A party may, subject to subclause (3), elect whether to be heard by appearance, by submissions, or on the papers.
- (3) If the Commissioner considers that a party has failed, without reasonable excuse, to attend a hearing or to agree to a hearing date, the Commissioner may, in his or her discretion,—
 - (a) direct a hearing on the papers for that party; or
 - (b) direct that the party take no further part in the proceeding; or
 - (c) treat the request for a hearing as withdrawn.
- (4) To avoid doubt, subclause (3)(a) does not prevent any other party to the proceeding being heard by appearance or by submissions.

Compare: LI 2014/275 r 169

113 Commissioner may determine form of hearing, etc

After all the evidence has been filed, the Commissioner may, by correspondence or by holding a pre-hearing conference of the parties, determine—

- (a) whether a hearing is required:
- (b) the form of the hearing:
- (c) the time for filing submissions:
- (d) the venue of the hearing:
- (e) the pleadings that will be considered at the hearing:
- (f) any other matter necessary for arranging a hearing.

Compare: LI 2014/275 r 170

114 Notice of hearing by appearance

- (1) The Commissioner must give each party to a hearing by appearance notice of the date and venue of the hearing not less than 1 month before the date of the hearing.
- (2) Subclause (1) does not apply if—
 - (a) the date and venue have been determined at a prehearing conference; or
 - (b) the parties waive compliance with subclause (1); or
 - (c) in the Commissioner’s opinion, notice of 1 month is not practicable for reasons of urgency.

Compare: LI 2014/275 r 171

115 Hearing fee

- (1) Each party who requests a hearing (other than a hearing on the papers) must pay the fee for a request for a hearing (**hearing fee**) in Schedule 3.
- (2) The hearing fee must be paid,—
 - (a) in the case of a hearing by appearance, not less than 10 working days before the date set for the hearing;
 - (b) in the case of a hearing by submissions, when the party files the submissions.
- (3) In the case of a hearing required under regulation 97, the hearing fee must accompany the filing of the notice seeking a hearing.
- (4) The Commissioner must refund a hearing fee paid by a party who withdraws from the hearing if the Commissioner receives notice of withdrawal not less than 5 working days before the date set for the hearing.

Compare: LI 2014/275 r 172

116 Venue for hearing by appearance

- (1) If 1 party resides or has a principal place of business in Wellington, the hearing must be held in Wellington or the place in New Zealand (if any) that is agreed by all the parties and the Commissioner as the venue for the hearing.
- (2) Otherwise, the Commissioner must determine where the hearing will be held.
- (3) The Commissioner may require the party or parties concerned to pay the Commissioner’s costs in holding the hearing at a venue outside Wellington.

Compare: LI 2014/275 r 173

117 Conduct of hearing by appearance

- (1) The Commissioner must determine how a hearing by appearance must be conducted.

- (2) Members of the public may attend a hearing by appearance, unless the Commissioner decides that it is not appropriate.

Compare: LI 2014/275 r 174

Costs

118 Costs

In deciding whether costs should be awarded to a party, the Commissioner may consider whether the proceedings might have been avoided if the party who started the proceedings had given to the applicant or PVR holder (as the case may be) a reasonable opportunity to take action to avoid the proceedings before the proceedings were started.

Compare: LI 2014/275 r 175

Schedule 1
Transitional, savings, and related provisions

r 4

Part 1
Provisions relating to these regulations as made

There are no transitional, savings, or related provisions in these regulations as made.
[Counsel to delete this statement if the regulations have transitional, savings, or related provisions.]

Schedule 2

Non-indigenous species of significance

r 6

	Common Māori name	English and/or Botanical names
1	Kuru	Breadfruit, <i>Artocarpus altilis</i>
2	Hue	Gourd, calabash, <i>Lagenaria siceraria</i>
3	Aute	Paper-Mulberry, <i>Broussentia papyrifera</i>
4	Karaka/Kōpi	<i>Corynocarpus laevigata</i>
5	Paratawhiti/Paraa	<i>Marrita fraxinea</i>
6	Perei	<i>Gastrodia cunninghami</i> and <i>Orthoceras strictum</i>
7	Kūmara	<i>Ipomoea batatas</i>
8	Taro	<i>Colocasia esculenta</i>
9	Tī pore	Pacific Cabbage Tree, <i>Cordyline fruticosa</i>
10	Whikaho	Yam, <i>Dioscorea</i> species

Schedule 3
Fees payable under Plant Variety Rights Act 2022 (excluding GST)

r 7

Item	Herbage, agricultural crops, vegetables, fungi	Fruit or nut plants	Other plants
	Fee (\$)	Fee (\$)	Fee (\$)
Application for grant	500	500	350
Examination fee	600	300	230
Growing trial fee by Plant Variety Rights Office—	–	500	450
grasses and white clover (per year)	3,200	–	–
wheat, barley, oats, forage brassicas, ryecorn, triticale, and peas (per year)	2,300	–	–
grass endophytes	1,500	–	–
potatoes—			
first year	1,600	–	–
each later year	500	–	–
Renewal fee	160	160	160
Application under section 101(2) of the Act (compul- sory licences and sales)	600	600	600
Hearing fee	[to come]		

Schedule 4

Quantities of propagating material to accompany applications

Description of variety	Seed (g)	Seed in ears (ears)
<i>Arable crops and vegetables</i> [to come]		r 37

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

Regulatory impact statement

The [name(s) of agency/agencies] produced [a regulatory impact statement/regulatory impact statements] on [date] to help inform the decisions taken by the Government relating to the contents of this instrument.

[A copy of this regulatory impact statement/Copies of these regulatory impact statements] can be found at—

- [Insert URL link(s) to the RIS on the agency's/agencies' Internet site(s)]
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Business, Innovation, and Employment.