

Submission template

Review of the Plant Variety Rights Act 1987: Exposure Draft of the Plant Variety Rights Regulations 2022

Your name and organisation

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The PVR Regulations have been divided up into a number of subsections as set out in the accompanying A3 poster and Guide. You are asked to comment below on each of these subsections. The final comment box is for you to provide comment on the proposed new seed quantities required with an application.

PVR Regulations 2022

Key matters that apply to all applications or grants	
1	General provisions [Regulations 3 and 7-34 and Schedule 3] These regulations cover definitions, fees (listed in Schedule 3), forms and documents, addresses and agents. Please provide any comments you have on these regulations in the box below. <i>[Insert response here]</i>
	Provisions relating to PVR applications [Regulations 35-48 (excl. 45-47)] These regulations provide what must be supplied with, and in relation to, a PVR application (information, photos, denomination, propagating material), including prescribed times for provision of those things. They also cover provisions relating to growing trials and payment of trial and examination fees. Please provide any comments you have on these regulations in the box below. We note the absence of any information or guidance on the nature (grafted, cuttings on own roots, age of propagated plants), style, size, quality and quantity of plants required to be supplied of candidates for applications other than seed-propagated varieties. Inclusion of reference sources, or prescribed guidance is important for equitable and accessible engagement with the PVR system.]
Key matters that only apply to applications or grants in certain circumstances	
3	Non-indigenous species of significance [Regulation 6 and Schedule 2] This regulation provides that the non-indigenous plant species of significance defined in clause 54 of the Bill are listed in Schedule 2 of the regulations. Please provide any comments you have on these regulations in the box below. <i>[Insert response here]</i>
	Opposition to grant of a PVR [Regulations 45-47] These regulations set out the provisions for filing a notice of opposition to the grant of a PVR and prescribed timeframes. Please provide any comments you have on these regulations in the box below. <i>[Insert response here]</i>

5

Cancellation, nullification and surrender of PVRs [Regulations 52-58]

These regulations set out the procedures relating to application for cancellation or nullification of a PVR and the procedures relating to notification of surrender of a PVR. Please provide any comments you have on these regulations in the box below.

[Insert response here]

6

Restoration of lapsed applications and cancelled PVRs [Regulations 59-70]

These regulations set out the procedures relating to restoration of lapsed PVR applications and restoration of a PVR cancelled because of non-payment of the renewal fee. Please provide any comments you have on these regulations in the box below.

[Insert response here]

7

Compulsory licences [Regulations 71-75]

These regulation set out the provisions relating to application for, opposition to, and amendment/revocation of, a compulsory licence. Please provide any comments you have on these regulations in the box below.

CI71 (2) We note there is no “timeliness” for action by the Commissioner to send a copy of any compulsory licence application to the holder of the PVR concerned. Given the prescriptive, timebound nature of the related procedures, some accountability for timely action by the Commissioner would be appropriate.

CI72 (4) We note confusion and a lack of clarity with regards to the trigger action in this section; to avoid uncertainty, clarity of *action required* and *triggering action* are necessary, and proper alignment of this clause to the preceding subclauses.

CI73 (2) There appears to be leniency for timeliness of action allowed for an applicant for a compulsory licence that is not balanced with an equivalent opportunity for the holder of the PVR subject of the application.

Such “balance” is provided for at CI74 (5) – we propose that subclause is amended to provide for both CI 74 & CI 75; with CI73 (2) deleted.

We note the continued absence of accountability for the Commissioner to follow up on performance of the licensee where a compulsory licence is granted. We submit that this avoidance of accountability to monitor and measure that the actual outcomes meet or exceed the “intention” and basis on which the compulsory licence is granted is a significant gap in this section of the Act and these enabling regulations. That gap should be remedied in respect of providing an equitable PVR system.]

8

Proceedings before the Commissioner (hearings) [Regulations 95-118]

These regulations set out the processes to which these proceedings apply and all other matters relating to the conduct of hearings. Please provide any comments you have on these regulations in the box below.

[Insert response here]

Other matters

9

Substitution and assignments [Regulations 49-51]

These regulations deal with substitution of applicants, registration of assignments and other interests, and vesting of PVRs or PVR applications. Please provide any comments you have on these regulations in the box below.

[Insert response here]

10

PVR Register [Regulations 76-88]

These regulations deal with matters relating to the PVR register (content, search and changes). Please provide any comments you have on these regulations in the box below.

[Insert response here]

11

Other matters [Regulations 89-94]

These regulations cover a handful of other, mainly administrative matters. Please provide any comments you have on these regulations in the box below.

PVR Regulations: proposal to amend quantities of seed required with an application

12

Quantities of seed required

The accompanying document **PVR Regulations: proposal to amend quantities of seed required with an application** sets out a proposal for increasing the quantities of seed required to be provided with a PVR application. Please provide any comments you have on this proposal in the box below.

[Insert response here]

If you have any other comments you wish to make on matters relevant to this consultation, please make them in the box below

[Insert response here]