Submission template

### Plant Variety Rights Act 1987 review: Options Paper

### Instructions

This is the template for those wanting to submit by Word document a response to the review of the Plant Variety Rights Act 1987: Options Paper.

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the options for changes to the Plant Variety Rights Act, as discussed in the Options Paper, by 5pm on Monday, 9 September 2019. Please make your submission as follows:

1. Fill out your name and organisation in the table, “Your name and organisation”.
2. Fill out your responses to the Options Paper questions in the table, “Responses to Options Paper questions”. Your submission may respond to any or all of the questions in the Options Paper. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.
3. If you would like to make any other comments that are not covered by any of the questions, please provide these in the “Other comments” section.
4. When sending your submission, please:
	1. Delete this first page of instructions.
	2. Include your e-mail address and telephone number in the e-mail accompanying your submission – we may contact submitters directly if we require clarification of any matters in submissions.
	3. If your submission contains any confidential information:
		1. Please state this in the e-mail accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 that you believe apply. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act.
		2. Indicate this on the front of your submission (eg the first page header may state “In Confidence”). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).

Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 1993 also applies.

1. Send your submission as a Microsoft Word document to [PVRActReview@mbie.govt.nz](https://mako.wd.govt.nz/otcsdav/nodes/88429918/mailto_PVRActReview%40mbie.govt.nz)

Please direct any questions that you have in relation to the submissions process to [PVRActReview@mbie.govt.nz](https://mako.wd.govt.nz/otcsdav/nodes/88429918/mailto_PVRActReview%40mbie.govt.nz).

### Plant Variety Rights Act 1987 review: Options Paper

### Your name and organisation

|  |  |
| --- | --- |
| **Name** |  |
| **Email** |  |
| **Organisation/Iwi** |  |

[ ]  The Privacy Act 1993 applies to submissions. Please check the box if you do not wish your name or other personal information to be included in any information about submissions that MBIE may publish.

[ ]  MBIE intends to upload submissions received to MBIE’s website at [www.mbie.govt.nz](http://www.mbie.govt.nz). If you do not want your submission to be placed on our website, please check the box and type an explanation below.

I do not want my submission placed on MBIE’s website because… [Insert text]

### Please check if your submission contains confidential information:

[ ]  I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

### Responses to questions in the Options Paper

|  |  |  |
| --- | --- | --- |
|  | **Objectives of the PVR Act**Do you have any further comment to make on the objectives of the PVR Act? |  |
|  | *[Insert response here]* |  |
|  | **Meeting our CPTPP obligations**Do you agree with our analysis and conclusion of the CPTPP options? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Treaty compliance – criteria for analysis**Do you agree with the criteria that we have identified? Do you agree with the weighting we have given the criteria? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Treaty compliance – key terms**Do you agree with our proposed approach to these key terms?Do you have any comments on the principles listed above and how they might apply in practice? For example, would it be useful to specifically list non-indigenous species of significance? |  |
|  | *[Insert response here]* |  |
|  | **Treaty compliance – options analysis**Do you agree with the proposed options? Are there alternatives we have missed?Do you agree with our analysis and conclusions? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **UPOV 91 alignment – criteria for analysis**Do you have any comment to make about our approach to, and criteria for, the preliminary options analysis in this paper? |  |
|  | *[Insert response here]* |  |
|  | **Definitions – breed** Our preferred option is to incorporate the definition of “breed” that was considered in the previous review to address concerns around discovery of varieties in the wild.Do you agree? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Definitions – general** Do you have any comments on the definitional issues discussed in this Part? |  |
|  | *[Insert response here]* |  |
|  | **Scope of the breeder’s right**Do you have any comments about these new rights required by UPOV 91? |  |
|  | *[Insert response here]* |  |
|  | **Exceptions to the breeder’s right**Do you have any comments about the exceptions required by UPOV 91? |  |
|  | *[Insert response here]* |  |
|  | **Term of the right**Do you agree with the proposed options? Are there alternatives we have missed?Do you agree with our analysis and conclusions? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Essentially derived varieties**Do you agree with the proposed options? Are there alternatives we have missed?Do you agree with our analysis and conclusions? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Rights over harvested material**Do you agree with the proposed options? Are there alternatives we have missed?Do you agree with our analysis and conclusions? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Farm saved seed**Do you agree with the proposed options? Are there alternatives we have missed?Do you agree with our analysis and conclusions? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Compulsory licences – general issues**Do you agree with the discussion and the proposals in relation to the five issues discussed above? If not, why not?Other than the two substantive issues below, are there other issues we have missed? |  |
|  | *[Insert response here]* |  |
|  | **Compulsory licences – grace period**Do you agree with the proposed options? Are there alternatives we have missed?Do you agree with our analysis and conclusions? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Compulsory licences – section 21(3)**Do you agree with the proposed options? Are there alternatives we have missed?Do you agree with our analysis and conclusions? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Enforcement – infringements** Do you agree with the discussion and the proposals in relation to the four issues discussed above? If not, why not?Should the PVR Act provide that infringement disputes be heard in the District Court? Are there others issues relating to infringements that we have missed? |  |
|  | *[Insert response here]* |  |
|  | **Enforcement – offences** Do you agree with the proposed options? Are there alternatives we have missed?Do you agree with our analysis and conclusions? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Exhaustion of the breeder’s right**Do you have any comments about the exhaustion provision required by UPOV 91? |  |
|  | *[Insert response here]* |  |
|  | **Cancellation and nullification of the breeder’s right**Do you have any comments about the cancellation and nullification provisions required by UPOV 91, and MBIE’s additional proposals discussed in this section? |  |
|  | *[Insert response here]* |  |
|  | **Extending coverage to algae**Do you have any comments to make about whether or not algae should be included within the definition of “plant” for the purposes of the PVR regime? |  |
|  | *[Insert response here]* |  |
|  | **Provisional protection**Do you agree with our preferred option for dealing with provisional protection? If not, why not? |  |
|  | *[Insert response here]* |  |
|  | **Transitional provisions** What is your view on the options presented here in relation to this issue? Are there alternatives we have missed?How should transitional provisions apply to EDVs? |  |
|  | *[Insert response here]* |  |

### Other comments

*[Insert response here]*