

Plant Variety Rights Act 1987 review: Options Paper

Your name and organisation

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Responses to questions in the Options Paper

1	Objectives of the PVR Act
	Do you have any further comment to make on the objectives of the PVR Act? No further comment
2	Meeting our CPTPP obligations
	Do you agree with our analysis and conclusion of the CPTPP options? If not, why not? No further comment
3	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? No further comment

4	<p>Treaty compliance – key terms</p> <p>Do you agree with our proposed approach to these key terms?</p> <p>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?</p> <p>No further comment</p>
5	<p>Treaty compliance – options analysis</p> <p>Do you agree with the proposed options? Are there alternatives we have missed?</p> <p>Do you agree with our analysis and conclusions? If not, why not?</p> <p>No further comment</p>
6	<p>UPOV 91 alignment – criteria for analysis</p> <p>Do you have any comment to make about our approach to, and criteria for, the preliminary options analysis in this paper?</p> <p>No further comment</p>
7	<p>Definitions – breed</p> <p>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.</p> <p>Do you agree? If not, why not?</p> <p>No further comment</p>
8	<p>Definitions – general</p> <p>Do you have any comments on the definitional issues discussed in this Part?</p> <p>No further comment</p>
9	<p>Scope of the breeder’s right</p> <p>Do you have any comments about these new rights required by UPOV 91?</p> <p>No further comment</p>
10	<p>Exceptions to the breeder’s right</p> <p>Do you have any comments about the exceptions required by UPOV 91?</p> <p>No further comment</p>
11	<p>Term of the right</p> <p>Do you agree with the proposed options? Are there alternatives we have missed?</p> <p>Do you agree with our analysis and conclusions? If not, why not?</p>

As per my original submission I wish to see the option for extension to the standard term as done in EU. I object to proposed Options 1 & 2 and support proposed Option 3. My objection has been repeated in section 206 of the report and I stand by this. I challenge your reference in section 207 to locally bred varieties. Locally bred varieties now make up less than 15% of total potato production in New Zealand. Furthermore, Plant and Food Research no longer has potato breeders following the recent retirement of the two principal breeders. They have been unable to find replacement breeders and have given a strong indication that the potato breeding program is under serious threat of ceasing. I challenge your statement and inference of "No local potato breeder suggested that the PVR term for potatoes be extended. This suggests that the current 20 year term is sufficient...". A lack of a submission can not in any way be connected to inference that the status quo is supported. Please provide evidence as to how you have reached this conclusion? The likely cessation of the local potato breeding program further increases the need for longer than 20 years of PVR for potatoes. As outlined in my original submission the need to import via quarantine significantly reduces the timeframe for commercialisation of potatoes.

Essentially derived varieties

- 12 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?

No further comment

Rights over harvested material

- 13 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?

No further comment

Farm saved seed

- 14 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?

No further comment

Compulsory licences – general issues

- 15 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?

No further comment

Compulsory licences – grace period

- 16 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?

No further comment

17	<p>Compulsory licences – section 21(3)</p> <p>Do you agree with the proposed options? Are there alternatives we have missed?</p> <p>Do you agree with our analysis and conclusions? If not, why not?</p> <p>No further comment</p>
18	<p>Enforcement – infringements</p> <p>Do you agree with the discussion and the proposals in relation to the four issues discussed above? If not, why not?</p> <p>Should the PVR Act provide that infringement disputes be heard in the District Court?</p> <p>Are there others issues relating to infringements that we have missed?</p> <p>No further comment</p>
19	<p>Enforcement – offences</p> <p>Do you agree with the proposed options? Are there alternatives we have missed?</p> <p>Do you agree with our analysis and conclusions? If not, why not?</p> <p>No further comment</p>
20	<p>Exhaustion of the breeder’s right</p> <p>Do you have any comments about the exhaustion provision required by UPOV 91?</p> <p>No further comment</p>
21	<p>Cancellation and nullification of the breeder’s right</p> <p>Do you have any comments about the cancellation and nullification provisions required by UPOV 91, and MBIE’s additional proposals discussed in this section?</p> <p>No further comment</p>
22	<p>Extending coverage to algae</p> <p>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?</p> <p>No further comment</p>
23	<p>Provisional protection</p> <p>Do you agree with our preferred option for dealing with provisional protection? If not, why not?</p> <p>No further comment</p>
24	<p>Transitional provisions</p> <p>What is your view on the options presented here in relation to this issue? Are there alternatives we have missed?</p> <p>How should transitional provisions apply to EDVs?</p>

[No further comment

Other comments

[Insert response here]