



COVERSHEET

Minister	Hon Cameron Brewer	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Amendments to the Plant Variety Rights Act	Date to be published	25 June 2026

List of documents that have been proactively released		
Date	Title	Author
April 2026	Amendments to the Plant Variety Rights Act 2022	Office of the Minister of Commerce and Consumer Affairs
29 April 2026	Plant Variety Rights Act 2022: Proposed Amendments ECO-26-MIN-0064 Minute	Cabinet Office
23 March 2026	Regulatory Impact Statement – Amendments to the Plant Variety Rights Act 2022	Ministry of Business Innovation and Employment

Information redacted

YES

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Some information has been withheld for the reason of Confidential advice to Government.

In Confidence

Office of the Minister of Commerce and Consumer Affairs

Cabinet Economic Policy Committee

Amendments to the Plant Variety Rights Act 2022

Proposal

- 1 This paper seeks policy approval for amendments to the Plant Variety Rights Act 2022 (the **PVR Act**) in response to concerns raised by stakeholders. The amendments will support the plant breeding sector to grow the number of new plant varieties to help drive productivity, resilience, value and export return across primary industries.

Relation to government priorities

- 2 The proposals in this paper support the Government's *Going for Growth* plan by encouraging economic development and growing the export returns of agricultural and related sectors.

Executive Summary

- 3 New plant varieties play a central role in improving the productivity and resilience of New Zealand's agriculture and related sectors. The PVR Act grants exclusive rights to breeders or importers to exploit their new plant varieties in New Zealand for a certain period of time. A plant variety right (**PVR**) is essentially the plant-world equivalent of a patent and works in a similar way.
- 4 Registrations under the PVR Act have been declining for many years, due to commercial, regulatory and market pressures that have reduced investment in new varieties. In addition, the PVR Act has a funding shortfall, of around \$1 million per annum. Large increases to the fees payable could address the deficit but would add to the pressures on the plant breeding sector and risks further declines in registrations.
- 5 To support innovation, strengthen confidence in the plant breeding sector, grow the pipeline of new varieties for the agricultural and related sectors, and secure sustainable funding, I recommend changes to:
 - 5.1 extend the maximum PVR duration to 30 years for woody plants and potatoes and 25 years for all other plants for all existing and new registrations to allow breeders and importers more time to recoup investment and fund future breeding programmes;
 - 5.2 permit a PVR applicant to commence legal proceedings during the period after application but before the PVR is granted, with safeguards (eg undertakings/security of costs) to protect innocent growers in the event the PVR is not granted; and

5.3 create one funding pool for both patents and PVRs. This recognises the similarities between patents and PVRs, and that they operate within the same innovation and administrative ecosystem. Creating one funding pool for both will avoid the need for large increases to PVR fees and have a negligible impact on patent fees.

6 I also recommend a small number of minor and technical amendments to the PVR Act.

Background

7 The PVR Act establishes a registration system granting time-limited exclusive rights over eligible new plant varieties and their harvested material. The aim is to encourage plant innovation while balancing the interests of breeders, growers, producers and consumers to deliver a net benefit to society.

8 The PVR Act replaced the Plant Variety Rights Act 1987 (the **old Act**) to meet international obligations and reflect international best practice. The PVR Act is administered by the Intellectual Property Office of New Zealand (**IPONZ**) within the Ministry for Business, Innovation and Employment (**MBIE**).

9 PVR-protected varieties are a major contributor to horticultural export returns. In the 2024 export season, 55 per cent of the \$979 million in export returns from apples and 75 per cent of the \$3.5 billion in export returns from kiwifruit came from PVR-protected varieties.

10 Registrations under the PVR Act, both from New Zealand breeders and importers, have been steadily declining for many years.

There are challenges affecting the plant breeding sector

11 I have heard from stakeholders that the breeding, or importing, of a new variety, is a long, complex and resource-intensive process. In practice, only a small number of PVR protected varieties are successful. The returns to breeders and importers from these successful varieties are needed to fund future breeding and importing programmes.

12 The development and introduction of new plant varieties is constrained by increasing cost, time and complexities of developing a new variety, border biosecurity requirements and limited quarantine capacity at the border, environmental regulations, complex market conditions, shifting consumer preferences (in domestic and export markets), and PVR Act settings.

13 Some stakeholders consider that the PVR Act does not adequately protect new varieties between the time an application is filed and when a PVR is granted. Legal proceedings can only be commenced after grant, but it takes two to three years for an application to be granted due to the need for growing trials.

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14 These factors are reducing investment and commercial returns from new varieties, weakening confidence across the plant breeding sector. A flat or declining number of new registrations due to rising costs for breeders and importers is not unique to New Zealand. Several countries and regions, including Canada, the European Union,

Japan, and the United Kingdom, have tried to boost their pipelines for new varieties by extending their maximum registration periods by five years (eg to 25 or 30 years, depending on the type of plant).

The financial stability of the PVR Act also needs to be addressed

- 15 The PVR Act, like other intellectual property statutes, requires the PVR regime to be self-funding through fees charged for registering new varieties (including growing trials) and renewing existing rights. It costs IPONZ \$1.7 million per year to administer, but due to the low number of PVRs this cannot be covered by fees unless they were substantially increased, which I do not consider is viable. The current deficit is around \$1 million per year and was covered by Crown funding, but this ceased on 30 June 2025.
- 16 PVR stakeholders say that a substantial increase in PVR fees would threaten the financial viability of many plant breeders and importers. Many businesses are small and already under significant financial pressure. If businesses were to exit the sector, it would further accelerate the decline in PVR registrations with flow-on effects for agriculture and related sectors, as well as for consumers' access to new plant varieties and harvest materials such as seeds and fruit.

Recommended amendments to the PVR Act

- 17 I recommend amendments to the PVR Act to alleviate some of the challenges that plant breeders and importers are facing to grow the pipeline of new varieties and provide sustainable funding for the PVR Act. Although these proposals do not address all the constraints facing the plant breeding sector, I believe they will deliver immediate benefits to the sector and over time the wider agricultural and related sectors.

Extend the maximum duration for all existing and new PVR registrations by five years

- 18 The maximum duration for new registrations is 25 years for woody plants and potatoes and 20 years for all other plants. Once a PVR is registered, its registration must be renewed every year to ensure that PVR protected varieties that are no longer commercially viable are available to the public to use and exploit without needing to pay a royalty to the breeder.
- 19 I recommend extending the maximum duration of the registration period for all existing and new PVR registrations. A longer registration period would facilitate plant breeders and importers to receive additional revenue (eg from licensing and sale of the commercially successful PVR protected varieties) and, in turn, recover more of their investment in developing, importing and commercialising those varieties. Plant breeders and importers would also be able to apply some of that additional revenue to the development of the next generation of commercially significant varieties.
- 20 There is a low risk that growers (eg farmers and horticulturists) will face increased costs from a longer PVR term that will be passed onto New Zealand consumers. However, growers and consumers have ready access to cheaper substitutable non-PVR protected varieties where these offer better value (for example, green 'Hayward' kiwifruit is a readily available non-PVR protected variety that is generally cheaper than the PVR protected 'SunGold' variety).

- 21 Stakeholders support extending the duration for registrations as it would improve cost recovery and provide better incentives and increased confidence to invest in, grow and import new varieties. It would also align New Zealand with the maximum duration available in key export markets including the European Union, Japan and the United Kingdom.

Restore the old Act's provisional protection

- 22 The old Act provided stronger protections to address the risk of new varieties being misappropriated and exploited before grant, by permitting a PVR applicant to commence legal proceedings prior to the grant of the PVR (**provisional protection**).
- 23 I recommend amending the PVR Act to restore the provisional protection previously available under the old Act with safeguards in the event there is no grant of a PVR to protect innocent growers (eg undertakings/security of costs).
- 24 Reinstating the provisional protection would provide a timely and cost-effective measure to help address the risk of theft and exploitation of new varieties between an application being made and the grant of an application.
- 25 Stakeholders generally support reinstating the provisional protection from the old Act, but some are concerned about the impact on innocent growers. This is why I recommend that appropriate safeguards are put in place to protect growers if a PVR is not granted.

Merge Patents Act 2013 and PVR Act fee-charging regimes

- 26 The Patents Act 2013 and the PVR Act provide similar rights to exploit their innovations/varieties for a set period of time, subject to them being renewed with payment of a renewal fee. Additionally, both are administered by IPONZ using the same shared core infrastructure. Despite this, each regime is required to be self-funding through its own fees regime, and as there are many more patents than PVRs – 24,000 compared to 1300 – the patents regime benefits from economies of scale, while PVRs does not.
- 27 Recognising these synergies, and to address the funding pressures on the PVR regime, I recommend merging the fee charging regimes to create a shared funding pool. This would enable a fairer distribution of administrative costs, ensure that patent and PVR application and renewal fees are similar and avoid large fee rises for PVR owners. Due to the large number of patents, this arrangement would have a negligible impact on patent fees – in the immediate term, no adjustment would be required. However, over time it may require a small increase in patent renewal fees in the order of a few dollars.
- 28 PVR stakeholders strongly supported this, and it helps to avoid steep fee increases for breeders and importers, which would have a negative impact on the sector.

Minor and technical amendments

- 29 Since the PVR Act entered into force in January 2023, a number of minor and technical issues have arisen with its administration. I recommend addressing these issues through the amendments in **Appendix One**.

Cost-of-living Implications

30 The proposals in this paper do not have any cost-of-living implications.

Financial Implications

31 The proposals in this paper do not have any financial implications for the Crown because costs are recovered from users.

32 The merging of the fee charging regimes under the PVR Act and Patents Act would not require an immediate adjustment to the current patent fees, because the current surplus in patents fee revenue is sufficient to offset the PVR Act fees revenue deficit. However, a review of all intellectual property fees will be required within the next 18 months to ensure that fees are set at the right levels to meet costs in the medium term.

Legislative Implications

33 Implementation of the proposals will require legislation to amend the PVR Act and the Patents Act. I propose that amendments will be done through the Plant Variety Rights Amendment Bill, which would also include an amendment to the fee charging

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34 The PVR Act and Patents Act are binding on the Crown. The proposed amendments do not warrant a change to this position.

Impact Analysis

Regulatory Impact Statement

35 The Ministry for Regulation has determined that the proposals for the minor and technical amendments outlined in **Appendix One** are exempt from the requirement to provide a Regulatory Impact Statement (**RIS**) on the grounds that they have no or only minor economic, social, or environmental impacts.

36 An attached RIS for the other changes has been independently assessed by a panel from MBIE. The panel assessed that the RIS **meets** the quality assurance criteria. Although public consultation has not informed the analysis, the panel considers the RIS meets the 'consulted' criterion, given advice that targeted engagement is more effective concerning changes to the PVR Act.

Climate Implications of Policy Assessment

37 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal, as the threshold for significance is not met.

Population Implications and Human Rights

38 There are no population or human rights implications.

Use of external Resources

39 External resources have not been used in the development of this paper.

Consultation

40 There has been targeted consultation with PVR stakeholders, including domestic and foreign breeders, importers, growers, producers and intellectual property practitioners to discuss the problem and proposed solutions. Patent users were not separately consulted on the fee charging framework, but the change is expected to have minor per-user impacts relative to the size of the patent base.

41 The following agencies have been consulted on the recommendations in this paper: Ministry for Regulation, Ministry for Primary Industries, Ministry of Justice, New Zealand Customs Service, Te Puni Kōkiri, and Treasury. The Department of the Prime Minister and Cabinet has been informed.

Communications

42 I intend to release a media statement to announce these decisions.

Proactive Release

43 I intend to proactively release this paper within 30 business days of Cabinet decisions, with redactions as appropriate.

Recommendations

The Minister of Commerce and Consumer Affairs recommends that the Committee:

- 1 **note** that access to new improved plant varieties is essential for increasing productivity, resilience, and export returns across agriculture and related sectors, such as biotechnology and food;
- 2 **note** that the Plant Variety Rights Act 2022 (the **PVR Act**), which is administered by the Intellectual Property Office of New Zealand (**IPONZ**), creates a registration system that grants plant breeders and importers exclusive rights to use and commercially exploit new plant varieties and their harvested material for a defined period of time (a **PVR**);
- 3 **note** the number of new varieties reaching New Zealand market (as measured by the number of varieties registered under the PVR Act) has been slowly declining over a long period of time;
- 4 **note** that action is needed to address a deficit being incurred by IPONZ in its administration of the PVR Act;

- 5 **agree** to amend the PVR Act to:
- 5.1 extend the maximum duration of all existing and new PVR registrations to 30 years for woody plants (including vines) and potatoes and 25 years for all other plants;
 - 5.2 provide that a person infringes the PVR protected variety if the exploitation occurs on or after the application date for the application that results in the PVR being granted, but before the PVR is granted, subject to appropriate safeguards;
 - 5.3 clarify that under section 33(1) a plant variety is novel if propagating material or harvested material for the plant variety has not been distributed in New Zealand before the period beginning 12 months before the application date;
 - 5.4 clarify that under section 34(1) a plant variety is distinct if it is clearly distinguishable from any other plant variety whose existence is a matter of common knowledge at the priority date;
 - 5.5 repeal section 134(1) requiring the PVR Commissioner to keep the PVR register in New Zealand;
 - 5.6 clarify an application for grant of a plant variety rights may not be granted by the PVR Commissioner until they are satisfied that it complies with all requirements under the Act;
 - 5.7 provide under section 156(2)(c) that the structure of the fee system may be such that renewal fees may recover costs at a level that provides appropriate incentives having regards to all the specified purposes of the Act set out under section 3;
- 6 **agree** to merge the fee charging provisions of the PVR Act with those under the Patents Act 2013 so that fees paid under the Patents Act may be used to recover all, or some, of the costs of the PVR Commissioner in the performance of their functions, powers and duties under the PVR Act;

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- 8 **invite** the Minister of Commerce and Consumer Affairs to issue drafting instruction to Parliamentary Counsel Office to prepare a Bill to amend the PVR Act and the fee charging provisions of the Patents Act; and
- 9 **authorise** the Minister of Commerce and Consumer Affairs to make any minor amendments as required during drafting of the Bill.

Authorised for lodgement

Hon Cameron Brewer
Minister of Commerce and Consumer Affairs

Appendix One: Minor and Technical Changes to the PVR Act

Issue	Recommended amendment
<p>Section 22(1)(c) provides that PVR protection applies from the “priority date” of an application. For varieties developed overseas, the priority date is the overseas application date, which may be up to 12 months earlier than the New Zealand application date.</p> <p>This creates a risk that New Zealand growers may be liable for infringement for activities occurring before any PVR application is made in New Zealand, at a time when growers would have no reasonable notice that protection has been sought.</p>	<p>Amend section 22(1)(c) to clarify that a person infringes a PVR when exploitation occurs on or after the application date, but before the PVR is granted.</p>
<p>Section 33(1) provides that a plant variety is novel if propagating or harvested material has not been distributed within specified periods before the “priority date”. The priority date is defined as the earlier of the New Zealand application date or, where applicable, an overseas application date.</p> <p>Basing the novelty assessment on the priority date has the unintended effect of extending the novelty period beyond that provided for under the Plant Variety Rights Act 1987 and Article 6 of 1991 Act of the International Union for the Protection of New Varieties of Plants (UPOV) Convention (UPOV 91). This particularly disadvantages applications relying on earlier overseas filings, which are subject to longer-than-intended novelty periods.</p>	<p>Amend section 33(1) to provide that the novelty period is to be calculated from the application date, rather than the priority date.</p>
<p>Section 34(1) provides that a plant variety must be clearly distinguishable from any other variety that is commonly known at the application date. A variety is considered of common knowledge where an application has been made in New Zealand or overseas that results in the grant of PVR or entry on an official register.</p> <p>Assessing distinctiveness by reference to the New Zealand application date can create unintended outcomes for applications based on earlier overseas filings. In particular, applications may be objected to where the overseas application has been granted, or a similar application has been filed by another party, before the related New Zealand application is made—despite the applicant claiming priority from the overseas filing.</p>	<p>Amend section 34(1) to provide that a plant variety is distinct if it is clearly distinguishable from any other plant variety whose existence is a matter of common knowledge in New Zealand at the priority date.</p>

Issue	Recommended amendment
<p>The Act sets out specific substantive grounds for refusing the grant of a PVR (including novelty, distinctness, uniformity, and stability), but does not expressly require that all statutory requirements be complied with before an application may be granted.</p> <p>The absence of an explicit compliance requirement creates uncertainty about whether an application can be refused where outstanding requirements have not been completed by the applicant within a reasonable timeframe.</p>	<p>Amend the PVR Act to clarify that the PVR Commissioner may only grant a PVR where an application complies with all the requirements of the Act.</p>
<p>Section 156(2)(c) limits the structure of renewal fees under the PVR Act to recovering administration costs, costs of the Māori Plant Varieties Committee, and costs set at a level that provides appropriate incentives having regard to section 3(a) of the Act (an efficient and effective system meeting New Zealand’s international obligations).</p> <p>This framework focuses only on the private benefits to PVR applicants and rights holders when setting renewal fees, and does not allow consideration of the other purposes of the Act in sections 3(b) and (c), including the protection of kaitiaki relationships with taonga species and mātauranga Māori, and achieving an appropriate balance of interests to deliver a net benefit to society.</p>	<p>Amend section 156(2)(c) to clarify that the structure of the fee system may be such that renewal fees may recover costs at a level that provides appropriate incentives having regards to all the specified purposes of the Act.</p>
<p>The PVR Act requires the PVR register to be kept in New Zealand. Comparable MBIE-administered legislation providing for statutory registers (including the Designs Act 1953, the Geographical Indications Registration Act 2006, the Companies Act 1993, and the Incorporated Societies Act 2022) does not impose a New Zealand-location requirement.</p> <p>This restriction prevents IPONZ from using cost-efficient overseas cloud-based systems to administer the PVR register, limiting opportunities to reduce administration costs. This, in turn, constrains options to address the ongoing shortfall in funding for administering the PVR Act and limits the ability to pass efficiency savings on to users.</p>	<p>Repeal the section 134(1) requirement for the PVR register to be kept in New Zealand.</p>