



## COVERSHEET

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

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
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**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

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



# Regulatory Impact Statement: Amendments to the Plant Variety Rights Act 2022

<b>Decision sought</b>	Analysis to inform Cabinet decisions on targeted amendments to the <i>Plant Variety Rights Act 2022</i> and fee-charging provisions in the <i>Patents Act 2013</i> .
<b>Agency responsible</b>	<i>Ministry of Business, Innovation and Employment</i>
<b>Proposing Ministers</b>	<i>Hon Cameron Brewer, Minister of Commerce and Consumer Affairs</i>
<b>Date finalised</b>	<i>23 March 2026</i>

## Description of the Minister’s regulatory proposals

The Minister is proposing to amend the *Plant Variety Rights Act 2022* (the **PVR Act**) to extend the maximum term of protection for existing and new rights by five years and to enable pre-grant enforcement; amend fee-charging provisions in the *Patents Act 2013* and PVR Act to allow recovery of Intellectual Property Office of New Zealand (**IPONZ**) costs across the patents and PVR regimes. Together, these changes improve the revenue runway for PVR registered varieties, reduce pre-grant risks of new varieties being misappropriated, and restore financial sustainability to the PVR fees regime without steep PVR fee increases. Use of PVR Act-protected varieties is voluntary and substitutable, limiting consumer and grower impacts.

## Summary: Problem definition and options

### What is the policy problem?

The supply of new plant varieties is weakening, including a decline in domestic breeding capability. As a result, New Zealand is becoming increasingly reliant on foreign bred varieties, leading to higher royalty outflows and creating a risk that overseas breeders may restrict access if New Zealand is viewed as too costly a market or high licensing fees paid by foreign breeders deters the growing of foreign varieties with desirable properties. A continued weakening of the variety pipeline poses longer term risks to the productivity and export performance of key agricultural sectors.

New Zealand’s current PVR settings are no longer providing strong enough incentives for the development or importation of new plant varieties. Rising breeding, importing and commercialisation costs, long lead times to develop and commercialise new varieties, and an unsustainable funding model for IPONZ limit the system’s effectiveness. Gaps in pre-grant protection reduce deterrence against unauthorised use during trials, while a narrow fee base creates pressure for significant fee increases that could further discourage participation.

### What is the policy objective?

**Primary:** Strengthen plant breeders’ and importers’ confidence in the PVR Act as a regime that provides clear, reliable, and timely protection that supports long-term investment in new varieties, and increase productivity, resilience and export growth by improving the availability, protection and commercialisation of new plant varieties.

**Secondary:** (i) enable fair remuneration for plant breeders/importers, (ii) reduce pre-grant misappropriation risk, (iii) ensure financial sustainability of the regime, and (iv) minimise additional costs to New Zealand growers and consumers.

**What policy options have been considered, including any alternatives to regulation?**

The policy options considered are as follows:

- **Issue 1 (term length):** 1(a) Status quo; 1(b) extend maximum registration period to 25/30 years for new registrations only; 1(c) extend maximum registration period to 25/30 years for existing and new registrations (*preferred*).
- **Issue 2 (pre-grant risk):** 2(a) Status quo; 2(b) targeted pre-grant enforcement of PVRs enabled with court safeguards (*preferred*).
- **Issue 3 (funding):** 3(a) Status quo; 3(b) full PVR cost recovery; 3(c) cross-recovery across patents and PVR (*preferred*).

The Minister's preferred options: 1(c) + 2(b) + 3(c).

**What external consultation has been undertaken?**

In response to stakeholder concerns MBIE undertook targeted engagement, authorised by the Minister, in November 2025. MBIE convened round-table discussions with small groups of domestic and foreign breeders, importers, growers, producers, and intellectual property (IP) practitioners to test problem drivers and canvass solutions.

**Participants generally supported extending the maximum term to 25/30 years:** noting better alignment with European Union, Japan and United Kingdom settings and the need for a longer revenue runway, especially for woody species and potatoes with late commercial peaks.

**Views on pre-grant enforcement were mixed:** most favoured a targeted mechanism to deter misappropriation of propagation material during trials/scale-up, provided court safeguards (undertakings/security, judicial discretion) protect good-faith actors.

**On funding:** breeders and importers strongly opposed substantial PVR fees increases and supported exploring cross-recovery across patents and PVRs, given the shared IPONZ infrastructure and the small PVR user base. Patent users were not separately consulted on cross-recovery of shared IPONZ services between the Patents Act and PVR Act, but the change is expected to have no immediate impact on patent fees and only minor per-user impacts relative to the size of the patent user base over the longer term.

These views are consistent with the issues and preferred options set out in the body of the RIS.

**Is the preferred option in the Cabinet paper the same as preferred option in the RIS?**

Yes.

## Summary: Minister's preferred option in the Cabinet paper

### Costs

#### Description of costs and where they fall

- **PVR owners (breeders/importers):** Renewal payments in the additional five years if PVR owners choose to capture benefits of the extended term; potential contract-variation effort where parties wish to capture the extended term (many licences already anticipate term changes with notice). Costs are direct and voluntary for owners who see value in renewing. Monetised: \$385 + GST per registration per extra year (PVR Regulations 2023).
- **Growers and producers:** Where they continue using protected varieties, licence fees/input costs may persist for longer; effects are tempered by substitution (growers and producers can switch to growing/using cheaper non-PVR protected varieties). Impacts vary by crop and product; indirect and market-driven.
- **Consumers (NZ and overseas):** Some varietal price premiums may persist for longer on consumption of PVR-protected varieties (and material derived from those varieties); moderated by competition among readily available non-PVR protected varieties and global pricing dynamics. Indirect.
- **IPONZ:** Minor, one-off system configuration to reflect extended terms and cross-recovery settings; annual renewals already supported by the system. Direct, but trivial, at system level.

#### Distributional impacts and competition

Costs primarily fall on PVR owners who choose to renew and those growers and consumers who continue to use those PVR protected varieties during any extended registration period. However, effects are limited by growers and consumers' ability to switch away from using PVR protected varieties where value is not present. Competition between varieties and products remains, as adoption of PVR protected varieties is voluntary.

As an export-led economy, domestic consumer impacts are largely driven by overseas demand for plant varieties, whether or not those varieties are protected by a PVR in New Zealand or elsewhere.

### Benefits

#### Description of benefits and where they fall

- **PVR owners (breeders/importers):** A longer effective revenue window (for existing and new registrations) improves the opportunity for research and development cost recovery for PVR protected varieties. Pre-grant enforcement reduces value erosion from misappropriation during trials/scale-up. Alignment with key markets improves access to foreign varieties and investment confidence. The benefits cannot be reliably quantified in monetary terms, due to uncertainty about timing, scale, and uptake of an extended registration period being made available to PVR owners. Benefits would likely be concentrated in a small share of successful varieties whose terms would be extended by their breeders and importers. Additional revenue could be used to fund breeding programmes.
- **Growers and producers:** The benefits would be indirect, arising from a stronger pipeline of high-performing varieties over time and potential productivity and quality gains, stronger IP settings for planting and sourcing decisions may increase asset value for some growers.
- **Consumers (NZ and overseas):** Choice/quality benefits as the pipeline strengthens. These benefits would be expressed through variety and related-product availability and attributes, rather than headline price changes. Indirect.

- **IPONZ/system:** Funding stability via cross-recovery avoids sharp PVR fee rises and maintains service levels; ~\$48k p.a. additional renewals as some registrations will be maintained for longer. Direct/systemic.

#### **Distributional impacts and competition**

Benefits accrue to successful varieties and to the system through more durable funding. Contestability remains because protected varieties are optional to adopt, maintaining competitive pressure.

#### **Balance of benefits and costs**

##### **Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?**

Yes. Costs are largely voluntary and market-constrained (owners renew where value exceeds cost; growers/producers pivot to substitutes if returns do not stack up), whilst benefits accrue where they matter most - successful varieties that fund the pipeline - and to registry stability via cross-recovery that avoids sharp PVR fees rises. On balance, the package is expected to yield positive net benefits, particularly for varieties with long commercialisation profiles. The benefits would increase over time as existing rights enter the extended window, pre-grant deterrence reduces misappropriation, and cross-recovery stabilises IPONZ finances for administering the PVR Act.

#### **Implementation**

##### **How will the proposal be implemented, who will implement it, and what are the risks?**

- **Implementation path:** Primary legislation to amend the PVR Act and fee-charging provisions in the Patents Act/PVR Act Minor IPONZ configuration; updated guidance for breeders/importers/growers on pre-grant processes, renewals and licensing.
- **Roles and readiness:** IPONZ administers the regime. MBIE owns policy settings and monitoring. No fundamental system rebuild is expected. Resourcing to be met within existing baselines, with fee settings progressed through the standard IPONZ review process.
- **Risks and mitigations:**
  - **Licensing transition:** Some licencing arrangements between PVR owners and growers may need variation to capture the extended term. Mitigation: sector communication; many standard licences already contemplate term changes with notice.
  - **Pre-grant litigation:** Risk of premature or vexatious claims. Mitigation: legislative safeguards (security/undertakings; judicial discretion); guidance emphasising evidential thresholds and proportionality.
  - **Fees alignment/timing:** Cross-recovery needs to align with the broader IPONZ fees review. Mitigation: run cross-statute modelling/consultation; aim to keep PVR fees near current levels.
- **Commencement/transition:** Staged commencement with clear guidance; no retrospective liabilities; renewals flow naturally into the extended term once enacted; no retrospective application of extended term for expired registrations.

## Limitations and constraints on analysis

This work has been constrained by the following limitations:

- **Empirical:** variety level returns and the extent to which longer PVR terms drive reinvestment in new varieties cannot be reliably quantified in advance. This RIS relies on stakeholder evidence and international comparators.
- **Attribution** is constrained because pipeline health and prices are shaped by multiple systems with no connections to the PVR Act (biosecurity, environmental regulation, international markets/demand).
- **Distributional impacts** from licence variation are contract-specific and not robustly monetisable.
- **Timing effects matter:** long lead times to commercialise many varieties may not impact short-term pipeline behaviour, including numbers of applications, grants, and renewals.

I am satisfied that, given the available evidence, this RIS represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature: \_\_\_\_\_



Gillian Sharp

Manager Corporate Governance  
and Intellectual Property Policy

23 March 2026

## Quality Assurance Statement

Reviewing [Agency/Agencies]: MBIE

QA rating: Meets

### Panel Comment:

The RIS 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.

## Section 1: Diagnosing the policy problem

---

**What is the context behind the policy problem and how is the status quo expected to develop?**

### **Plant variety rights regime and regulatory framework**

1. New plant varieties help lift productivity, resilience to pests and climate change, and export value across agriculture and related sectors such as biotechnology and food. On-going access to new varieties is, therefore, important for economic development including growing export returns.
2. The *Plant Variety Rights Act 2022 (PVR Act)* is New Zealand's framework that incentivises breeders and importers of new plant varieties by granting time-limited exclusive rights to exploit those varieties (referred hereafter as a **PVR**). These are recorded on the PVR Register (**the Register**). The aim is to encourage plant innovation, whilst balancing the interests of breeders, growers, producers and consumers, so there is a net benefit to society.

### **Current legislative settings**

3. The PVR Act replaced the *Plant Variety Rights Act 1987* (the **old Act**) and provides a registration system administered by the Intellectual Property Office of New Zealand (**IPONZ**). Registration gives the PVR owner exclusive rights in relation to a new plant variety and its harvested material for a defined period.
4. PVRs are granted after IPONZ receives an application from a plant breeder or importer to register a new variety. New varieties are examined by IPONZ (through growing trials either held in New Zealand or overseas in certain circumstances) to assess whether the variety satisfies the grounds for registration, including that the variety is novel, distinctive, uniform and stable. Growing trials can take anywhere from 2 to 17 years to complete and the length of trials often depend on the type of species involved (eg on average arable crops take about 2 years, whilst fruit and nut trees take around 5 years).
5. Once a variety becomes registered, the PVR owner must pay annual registration renewal fees to maintain their registration. Renewal fees are set above cost recovery levels to encourage PVR owners to relinquish registrations of non-profitable varieties. More information about the process of applying for and maintaining a PVR registration can be found on the IPONZ website [here](#).
6. The PVR Act gives effect to New Zealand's commitments under the *Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)* to align with the international standards of protection for new varieties as set out under 1991 Act of the *International Convention for the Protection of New Varieties of Plants (UPOV 1991)*.
7. The key 2022 changes relevant to this analysis were:
  - a. **Maximum protection terms** (ie registration periods) were extended for woody plants (including vines) from 23 years to 25 years for consistency with UPOV 1991 and for potatoes from 20 years to 25 years.

- b. **Removal of provisional protection** - the ability to take action for infringement before grant was removed. PVR owners may now only bring infringement action after registration, but they may seek compensation for any injury suffered back to the application date once the PVR is granted. The change was made to bring enforcement PVR rights into alignment with other types of intellectual property rights, which similarly prevent infringement action of rights being taken until after the rights are granted/registered.

### Key participants in the PVR Act regime

- 8. Key participants in the PVR Act regime include:
  - a. **PVR owners:** Businesses or individuals who breed or import new, distinctive plant varieties with desirable characteristics for commercial return. Around 60% of varieties on the Register have been imported from foreign breeders.
  - b. **Growers:** Farmers, horticulturalists, foresters, floriculturists, nurseries and others who are licensed to grow and sell plants and harvested material (such as seed, fruit, timber, tubers, and flowers).
  - c. **Producers:** Businesses that use plants or harvested material as inputs to create higher-value products (such as food and beverages) or as feedstock (such as meat and dairy producers).
  - d. **IPONZ:** The part of MBIE that examines PVR applications and administers the register.
  - e. **Consumers (New Zealand and overseas):** End users who purchase plants, harvested material and products made from them. As an export-oriented economy, a significant proportion are overseas consumers.

### Commercial realities and timelines

- 9. Breeding or importing new varieties is lengthy, risky and resource-intensive. It involves the interaction of multiple complex regulatory systems, of which PVRs are only a small part. Only a small share of new varieties succeed commercially, and the successful few help fund future breeding programmes.
- 10. Lead times to develop and exploit new commercial varieties varies significantly depending on the type of plant concerned. For woody plants (eg vines and trees) and potatoes, stakeholders report that it can take well over a decade from breeding to marketing. The window for commercial success of woody varieties will frequently be towards the end of the PVR registration period. For arable crops, the timeline to market is much shorter, and the window of commercial success often occurs early in the life of the PVR (first four to five years).
- 11. Foreign breeders of imported varieties often require the importer to secure the grant of a PVR (and bear costs associated with the grant) before New Zealand trials proceed, adding upfront cost and risk. Stakeholders indicate the success rate for imported varieties is low - around one in eight to 10 PVR registrations are commercialised.
- 12. Stakeholders told us that some of the difficulties impacting their sector are due to the settings of, or factors related to other regulatory regimes as well as complex market and shifting consumer demand –and are discouraging breeders and importers from investing in new varieties. These include:
  - a. costs associated with meeting biosecurity requirements (which can run into \$100,000s of dollars)

- b. limited quarantine space at the border (sometimes meaning they can wait years for sufficient space to become available)
  - c. environmental regulations (restricting the type of plants and their properties that can be grown in New Zealand) add significant time and cost to releasing new varieties.
13. These external factors all have an impact on breeders' ability to develop and commercialise new varieties. This is contributing to a decline in PVR registrations and resulting in PVR settings (such as length of term and provisional protection) being viewed as practical settings to adjust to provide the sector with some relief and increase confidence in the breeding sector so as to stimulate the development and availability of new varieties.

#### **PVR registrations have been declining**

14. The overall number of granted plant variety rights on the Register has declined over time and the mix has shifted. Data shows:
- a. Total rights on the Register fell from 1,763 (June 2005) to 1,250 (June 2025) - a decline of about 29%.
  - b. Around 60% of registered varieties are now imported from foreign breeders.
  - c. Sector patterns differ, for example, fruits and nuts have grown modestly whilst ornamentals have declined markedly.
  - d. Only a minority of PVRs (on average only around 13%) are held to full term (20/25 years), suggesting commercial life is often shorter than the maximum protection period.
15. Further PVR registration and renewal statistics are attached as **Annex One**.

#### **Administration and funding pressures**

16. IPONZ's costs to administer the regime are around \$1.7 million per year, but fees revenue is around \$0.7 million. A significant shortfall in fees revenue for IPONZ to administer the regime was an outstanding issue when the PVR Act was enacted. The fees revenue is largely derived from application, growing trial, examination and registration renewal fees (information about these fees can be found [here](#)). The shortfall was addressed through temporary Crown funding to help transition the overall administration of the Act to full cost-recovery through fees. This funding ended on 30 June 2025. Stakeholders have opposed moving to full cost-recovery through fees, citing viability risks for local breeders and importers.

#### **Stakeholders have told us about many challenges affecting the plant breeding sector**

17. Targeted engagement with breeders, growers, farmers and advisers (authorised by the Minister in November 2025) indicates that, within the broader context they are operating in, the current PVR settings do not provide enough certainty or a sufficient commercial runway given long lead times and shifting markets. Stakeholders suggested:
- a. Extending maximum terms by five years for some varieties to better match terms in key export markets (eg Europe, Japan and United Kingdom).
  - b. Reinstating provisional protection that was previously available under the old Act would better facilitate PVR applicants addressing misappropriation of their new varieties prior to grant.

- c. Providing a Crown contribution to administration costs to avoid steep fee increases that could deter applications and reduce the pipeline of new varieties.

18.

Commercial Information

### **Expected development of the status quo**

- 19. Regulatory settings and complex global market pressures outside of the remit of the PVR regime are unlikely to change in short to medium term. In our view, notwithstanding the PVR Act is relatively new, without targeted legislative adjustments to its settings the cumulative pressures holding back the commercialisation of new varieties are likely to continue. Shorter effective revenue periods, and gaps in pre-grant protection reduce incentives to invest and import. Over time, this risks lower productivity and weaker export performance in agricultural and related sectors that rely on varietal innovation. Furthermore, the new legislation did not address the medium to long term funding shortfall in IPONZ administration of the PVR Act.

### **What is the policy problem or opportunity?**

- 20. New Zealand’s agricultural and related sectors depend on a steady pipeline of new and distinctive plant varieties to support productivity, diversification, climate resilience, and export returns. However, the pipeline of new varieties has been in a slow decline over many years<sup>1</sup>, alongside a decline in domestic breeding capacity due a range of factors as discussed above. A weakening pipeline, including in respect of foreign bred varieties, risks undermining the productivity of, and export returns from, the primary sector.
- 21. The primary sector is also becoming increasingly dependent on accessing foreign-bred varieties, which reduces the value captured by New Zealand as royalty payments to use those varieties flow offshore. There is also a risk that foreign breeders may restrict access to their varieties, including because of costs they face in New Zealand to make available their varieties or make their varieties available at such high royalties that domestic growers are deterred from growing them (foregoing any potential benefits from growing those varieties).
- 22. A shrinking domestic breeding sector reduces the chances of developing high value new varieties (like SunGold kiwifruit) and limits the potential economic returns these innovations can generate for New Zealand, including licensing income from the exploitation of these varieties by foreign growers flowing into the economy.

23.

Commercial Information

---

<sup>1</sup> “Pipeline of new varieties” refers to the *ongoing, structured process* through which new kinds of plants (cultivars, hybrids, genetically improved varieties, etc.) are developed, tested, and released to growers or the market.

24.

Commercial Information

Whilst this is the case, targeted changes to the PVR Act can still contribute to improving incentives to develop, import, test, and commercialise new varieties, supporting the Government's goals for productivity and high exports returns for the agricultural and related sectors.

### **Overall policy problem**

25. Notwithstanding the issues outside of scope of the PVR Act, the PVR Act is not fully enabling the development, importation, or protection of new varieties, at a time when commercial, regulatory, and market pressures are already reducing breeders' and importers' ability to bring new varieties to market. As a result, New Zealand risks a continued decline in the availability of new varieties and weaker sector performance over time.
26. The problem has three linked components:
- a. Increasing costs and commercial risks are reducing the ability of breeders and importers to recover their investments, limiting the number of new varieties being developed or brought into New Zealand.
  - b. Protection gaps prior to grant (of the PVR) leave breeders exposed to unauthorised use of new varieties, which can significantly erode the value of a new variety before commercialisation.
  - c. The current funding model for IPONZ to administer the PVR Act is not financially sustainable, undermining system stability and user confidence.
27. Each issue is outlined below.

### **Issue 1 — Rising costs and commercial risk are reducing incentives to breed and import new varieties**

28. Breeding and importing new varieties take a long time and is costly and highly uncertain. Stakeholders report that the cumulative effect of rising costs across the wider regulatory landscape - biosecurity, quarantine facilities, environmental regulation, and trialling time and costs - has made it increasingly difficult to recoup investments. These pressures have contributed to a decline in development, importation, and commercialisation of new varieties, reflected in declining PVR registrations over time.
29. For plant breeders supplying new varieties to small or specialised markets (such as ornamentals), commercial returns from the domestic market are too limited to support the full cost of breeding programmes. For foreign breed varieties, importers often shoulder significant upfront costs before they know whether a variety will be commercially viable. Combined, these factors are weakening confidence of breeders and importers and reducing the number of new varieties entering the pipeline.

### **Issue 2 — Unauthorised exploitation before grant reduces commercial value and undermines incentives**

30. Under the PVR Act, breeders and importers cannot take legal action for infringement until a PVR has been granted. Although compensation is available retrospectively, (back to the date of application and for provable injury), this leaves a protection gap in the

period between application and grant – on average around 2.3 years across all varieties, but sometimes significantly longer (up to 17 years in rare cases) for some varieties.

31. During this period, breeders are often undertaking multi-region growing trials, scaling up propagating material, and working with growers. These activities inherently require many parties to have access to the plants - creating opportunities for unauthorised removal and unlicensed commercial exploitation of new varieties prior to grant.

32. [Redacted] Commercial Information [Redacted]  
[Redacted] Commercial Information [Redacted] Unauthorised propagation and exploitation can severely undermine the commercial value of a new variety [Redacted] Commercial Information [Redacted]  
[Redacted] Commercial Information [Redacted]

33. [Redacted] Commercial Information [Redacted]

### **Issue 3 — The PVR regime’s funding model is structurally unsustainable**

34. The PVR Act currently costs ~\$1.7 million per year to administer, but IPONZ collects only ~\$0.7 million in fees revenue. For the past two years, the Crown covered the shortfall, but this support ended on 30 June 2025. Without intervention, IPONZ cannot continue to administer the regime at required service levels.

35. Raising fees to full cost recovery is not viable because:
- a. the small user base means costs would fall heavily on a small number of breeders and importers, many already facing financial pressure; and
  - b. the current “each IP register must fund itself” cost recovery model is increasingly at odds with the reality that IPONZ operates as a shared service across multiple intellectual property registers (ie PVRs, patents, trade marks, designs and geographical indications).

36. Breeders and importers have expressed concern that large fee increases would further reduce applications, shrink the overall size of the register over time, and jeopardise the long-term viability of the registration regime.

37. Without a sustainable funding model, the continuity and credibility for IPONZ to administer the PVR Act are at risk.

### **The cumulative impact of these issues is a problem that should be addressed**

38. New Zealand’s PVR Act settings are not providing sufficient certainty, protection, or financial sustainability to support the development, importation, and commercialisation of new plant varieties. Rising costs, pre-grant enforcement gaps, and an unsustainable funding model for IPONZ are weakening plant breeders’ and importers’ confidence and reducing the number of new varieties entering the New Zealand market.

39. If unaddressed, these pressures will continue to erode the pipeline for new varieties, undermining productivity, resilience, and long-term export performance of the agriculture and related sectors.

40. Targeted improvements to the PVR Act - such as extending protection periods for varieties with long commercialisation curves, restoring a form of pre-grant protection, and modernising the funding model - offer an opportunity to:
  - a. strengthen incentives to innovate and import
  - b. reduce commercial risk
  - c. improve sector confidence, and
  - d. ensure the PVR regime is financially viable.
41. These changes would support the Government's objective of growing productivity and doubling export returns across agricultural and related sectors by 2034

### **What objectives are sought in relation to the policy problem?**

#### Primary objectives

42. To strengthen plant breeders' and importers' confidence in the PVR Act as a regime that provides clear, reliable, and timely protection that supports long-term investment in new varieties.
43. To increase productivity, resilience, and export growth across New Zealand's agriculture and related sectors by improving the availability, protection, and commercialisation of new plant varieties.
44. This contributes directly to the Government's *Going for Growth* commitment to double export returns for these sectors by 2034.

#### Secondary objectives

45. Each secondary objective supports the primary objectives:
  - a. Enable fair and sustainable commercial returns**

Improve the ability of breeders and importers to recover the substantial costs of developing, importing, and trialling and commercialising new varieties, noting that only a small number of varieties achieve commercial success.
  - b. Reduce undue risks of misappropriation prior to grant**

Address the current protection gap between application and grant that exposes breeders to commercial loss from unauthorised propagation and exploitation of varieties during trial and scale-up phases.
  - c. Ensure the PVR regime is financially sustainable**

Modernise or supplement current funding settings so that IPONZ can administer the PVR Act effectively without imposing disproportionate costs on its small user base.
  - d. Minimise cost impacts on growers and consumers**

Ensure any changes to support breeders and importers do not unnecessarily increase costs for New Zealand growers and end-users.

## **What consultation has been undertaken?**

46. In November 2025 (authorised by the Minister), MBIE held targeted round-table meetings with a cross-section of PVR Act stakeholders - including domestic breeders, importers, growers, producers, and IP practitioners - to test the issues and potential policy responses.
47. We did not undertake public consultation because previous PVR consultations indicated that there is limited public interest in the settings under this Act. We are confident that the stakeholders consulted in our targeted round-table meetings were those most likely to be impacted by the issues discussed in this RIS and who had previously taken an interest in addressing these issues.
48. As a group, patent users they are difficult to identify for engagement, in part because around 95% of them are foreign-based businesses. Furthermore, in the short-term there is no impact upon them, as there are no immediate changes to patent fees proposed. Should a future review of patent fees be undertaken, patent users will be engaged with.
49. Consequently, we concluded that the costs of running a public consultation outweigh the benefits.
50. PVR Stakeholders told us:

### **Term extension**

51. There was broad support to extend the maximum duration of PVR protection by five years for selected plant types, aligning New Zealand with key export markets such as Europe, Japan, and the United Kingdom, all of whom have increased their maximum duration of protection in recent years to encourage more plant breeding. Stakeholders considered this would:
  - a. better reflect long commercialisation curves (especially for woody species such as fruit and nut trees and vines like kiwifruit)
  - b. improve cost recovery, and
  - c. provide stronger incentives to invest and import.

### **Pre-grant protection (provisional protection)**

52. Stakeholders expressed mixed views:
  - a. Many supported reinstating provisional protection from the old Act to reduce incentives for theft of propagating material during trials and unauthorised commercialisation prior to PVR grant.
  - b. Some raised concerns about potential impacts on innocent growers who commercially exploit a new variety that is not subsequently granted a PVR. To address this, stakeholders favoured clear statutory safeguards being provided to protect innocent growers in the event a PVR is not granted.

### **Funding and fees (cross-recovery option)**

53. Breeders and importers strongly opposed significant fee increases, emphasising that current financial pressures are already constraining breeding and importing. Stakeholders generally supported a cost-sharing approach between the users of the Patents Act and PVR Act, noting that:
  - a. the current model places disproportionate pressure on the small pool of PVR Act users; and

- b. changes would have minimal impact on the much larger pool of Patents Act users.
- 54. Across all issues, stakeholders emphasised that the PVR Act needs to be stable, predictable, and affordable to support long-term investment and maintain New Zealand's access to globally competitive varieties.

## Section 2: Assessing options to address the policy problem

---

### What criteria will be used to compare options to the status quo?

55. The criteria below will be used to assess each option against the status quo. They are grouped to reflect the three problems identified earlier:
- a. increasing costs and commercial risk
  - b. unauthorised exploitation before grant
  - c. financial sustainability of the regime.

### Criteria for Issues 1 and 2: Increasing costs and unauthorised exploitation

56. **Investment confidence:** Does the option improve breeders' and importers' confidence to invest in developing, trialling, and commercialising new varieties by reducing commercial risk and uncertainty (including during long commercialisation periods)?
57. **Fair remuneration:** Does the option support breeders and importers to be fairly remunerated for their investment in the development, importation, exploitation and consumption of new varieties by growers, producers and consumers<sup>2</sup>?
58. **Impacts on New Zealand users:** Does the option minimise unnecessary cost and operational impacts on growers, producers, and consumers who may benefit from access to new varieties?

### Criteria for Issue 3: Financial sustainability of the PVR regime

59. **Lawfulness and system integrity:** Does the option enable IPONZ to operate lawfully and consistently with the statutory requirements for administering the PVR Act?
60. **Cost-effectiveness:** Does the option support a cost-effective and durable operating model for administering the PVR Act?
61. **Fair remuneration:** Does the option support breeders and importers to be fairly remunerated for their investment in the development, importation and exploitation of new varieties?
62. **Proportionality and equity of cost recovery:** Does the option ensure that the costs of administering the PVR Act are distributed fairly and proportionately across users, taking account of the benefits they receive and their ability to pay, and avoiding disproportionate burdens on a small user base?
63. **Minimising business and regulatory compliance costs:** Does the option keep compliance requirements low for breeders and importers who develop and register new varieties, and for, growers, and producers who use the PVR protected varieties?
64. The fair remuneration criterion has been double weighted, because the ability to recover costs is central to solving the core investment disincentives identified by stakeholders. Breeders and importers rely on the small number of commercially successful varieties to fund ongoing breeding and import programmes. For woody plants, vines, and potatoes - where the commercial window often falls toward the end of the PVR registration period - the duration of registration directly affects cost recovery.

---

<sup>2</sup> Plant breeding and importing is a business and not a charity. Growers, producers and consumer who benefit from having access to new varieties should fairly compensate breeders and importers from making the varieties available to them.

## What scope will options be considered within?

65. The scope of options considered is informed by stakeholder engagement and the portfolio responsibilities of the Minister of Commerce and Consumer Affairs. Options are limited to legislative changes to the PVR Act and other closely connected statutes administered by IPONZ, reflecting three constraints:
- Many of the broader cost drivers facing breeders (biosecurity, quarantine facilities and environment) sit outside the PVR system and are therefore out of scope for this RIS.
  - Fiscal constraints mean further Crown funding is not a feasible option, so options must work within existing funding baselines or consider changes to the PVR Act and/or other statutes to support financial sustainability.
  - A short-term, targeted funding fix was needed to address the fiscal deficit, so introducing new fees or levies was not considered. A fees and levy regime would have required a lengthy, detailed review of all IPONZ services and how they are funded across the five IP statutes it administers, including statutes not closely linked to the PVR Act (the Designs Act 1953, Geographical Indications Registration Act 2006, and Trade Marks Act 2002).
66. The deficit in funding for the administration of the PVR Act is so significant that further operational cost savings through, for example, changes to IPONZ services are not feasible.
67. Options considered below do not affect either existing international obligations (eg under either CPTPP or UPOV 1991) or obligations under Te Tiriti o Waitangi.
68. Comparable PVR regimes in key export markets, including the European Union, Japan, and the United Kingdom, have been examined when developing options, particularly regarding maximum term length (and their justification for implementing terms longer than required under UPOV 1991) and pre-grant protections.

## What options are being considered?

*Issue 1: increasing costs to breeders and importers (term length)*

### Option 1(a) – Status Quo

69. **Description:** Maximum PVR duration for new registrations is 25 years for woody plants and potatoes and 20 years for other plants. The maximum duration for registrations granted under the old Act are 23 for woody plants and 20 years for all other types of plants.
70. **How the problem manifests:** Long lead times and late revenue peaks, particularly for woody plants and potatoes, mean the effective period to recover sunk costs is often tight and near the end of the maximum duration for registrations. A shrinking pipeline of new varieties and reliance on few successful varieties raises sensitivity to duration settings.
71. **Stakeholder views:** Concern that New Zealand's settings lag key markets with 25/30-year terms and may dampen willingness to supply/import new varieties. Some argue few rights run to full term, limiting benefit of longer maximum duration to only some breeders and importers.

### Option 1(b) – Extend maximum duration by five years for new registrations only

72. **Description:** extend the maximum duration by five years for all new registrations granted after the implementation date; subject to normal renewals requirements (such as payment of annual renewal fees in a timely manner). Registrations granted prior to the implementation date would continue to have the maximum duration as outlined for the *status quo* above (ie either 23/20 or 25/20 years).
73. **Rationale:** Improves future cost-recovery runway without disturbing existing licensing arrangements between breeders/importers and growers.
74. **Trade-offs:** Benefits realised only in the long term (ie from either 20 or 25 years after grant); limited (if any) near-term effect on pipeline and confidence.

### Option 1(c) - Extend maximum duration to 25/30 years for existing and new registrations (preferred)

75. **Description:** extend the maximum duration all existing and new woody plants (including vines) and potatoes to 30 years and for all other plants to 25 years registration, subject to normal renewals requirements if extended period desired (ie existing PVR owners must opt-in by paying further annual registration renewal fees during the extended period); aligns with key markets.
76. **How this addresses the problem:** Creates immediate runway for PVR varieties close to the end of their maximum duration, which is where woody crops often realise biggest returns; strengthens near-term reinvestment signals for breeders and importers, rather than just long-term investment signals under Option 1(b).
77. The proposal reflects the types of safeguards that courts would ordinarily have the authority to order, and stakeholder feedback indicates that courts already possess inherent powers - such as requiring undertakings or security - to ensure appropriate protections for defendants. Including an express requirement for safeguards in the PVR Act would provide greater clarity and assurance for innocent defendants.<sup>3</sup>
78. Further advice will be sought from MBIE Legal and the Parliamentary Counsel Office during drafting to determine whether other safeguards would be appropriate and should be incorporated. The inclusion of any additional safeguards would be subject to regulatory impact analysis requirements.
79. **Stakeholder views:** Most supported the change; some said it mainly helps breeders with long-lead-time crops. Concerns about costs from reopening licences, though some already allow term changes. No growers opposed it; extended terms can lift crop returns and land values. Some growers, especially arable, can switch to non-protected varieties if these offer better value.
80. **System effect:** Small; immediate lift to renewal revenue for IPONZ as some PVR registrations would be renewed for longer.

---

<sup>3</sup> The Ministry of Justice raised no concerns with the proposal to reinstate the former PVR Act's provisional protection mechanism, aside from its standard request for further information on any potential impacts on court resourcing.

Commercial Information

Therefore, we have not included any analysis of the impact on court resourcing in our analysis below.

## *Issue 2: Unauthorised exploitation before grant (pre-grant risk)*

### **Option 2(a) – Status Quo**

81. **Description:** Enforcement under the PVR Act only after grant; retrospective compensation may be sought back to application date once granted. Parties rely on private controls (eg secure fencing, contracts, supervision) and general law (eg theft) during trials.
82. **Problem in practice:** Average ~2.3 years to grant (longer in some cases); trials and scale-up across multiple sites increase opportunities for propagating material theft and unauthorised exploitation of the variety; taking action to address theft and unauthorised commercial exploitation can be expensive and uncertain, including establishing injury suffered during this period to quantify; and deters investment.
83. **Stakeholder views:** Mixed: some see existing measures as sufficient; others report deterrence gaps relative to the old Act's provisional protection.

### **Option 2(b) – Restore old provisional protection with safeguard measures (preferred)**

84. **Description:** Provide from application date, for PVR applicants to seek court action to stop authorised exploitation of their variety as if a PVR has been granted, subject to safeguards in the event there is no grant of a PVR (eg, PVR application may be ordered to provide undertakings or give security against the PVR application being subsequently withdrawn or refused registration).
85. **How this addresses the problem:** Enables more timely and more cost-effective response to theft of propagating material/unauthorised commercial during the riskiest period (during growing trials) compared to the Option 2(a); limits erosion of value and injury suffered prior to grant; and increased investment confidence.
86. **Safeguards:** Explicit judicial powers to protect good-faith actions by parties if the PVR is not granted and deters frivolous and vexatious enforcement action, addressing the key concerns raised by stakeholders.

## *Issue 3: Financial sustainability of the PVR regime*

### **Option 3(a) – Status quo (fees remain unchanged)**

87. **Description:** Retain current fees with a persistent annual shortfall (~\$1m) relative to IPONZ costs (~\$1.7m vs ~\$0.7m revenue); Crown top-up ended 30 June 2025.
88. **Problem in practice:** Ongoing deficit undermines service stability; creates legal risks to IPONZ administration of the of the intellectual property statutes, as each statute requires the administration of relevant register to be funded from fees collected under that statute and pressure for significant fee increases on a small user base already under cost strain.

### **Option 3(b) – Move PVR fees to full cost recovery**

89. **Description:** Different fees mixes tested (higher examination/growing trial/renewals, tiered by category of plant/period of registration).
90. **Problem in practice:** Strong stakeholder opposition; risks depressing applications/grants, and further weakening the pipeline for new varieties and reducing fees revenue for administering the PVR Act.

### **Option 3(c) – Enable cross-recovery across patents and PVR regimes (preferred)**

91. **Description:** Amend fee-charging provisions of the Patents Act and PVR Act so IPONZ can pool patents and PVR revenue and recover costs holistically across the two registers (IPONZ functions and scope of rights granted under each statute remain unchanged).
92. **Why this helps:** Spreads fixed costs over a wider base; keeps PVR fees stable/near current levels; addresses the PVR deficit without materially impacting either PVR or patents users.

#### **How do the options compare to the status quo/counterfactual?**

93. **Scoring:** –2 substantial detriment • –1 minor detriment • 0 neutral • +1 minor improvement • +2 substantial improvement.
94. The scoring and comparison of each option reflect only what can be achieved within the scope of the PVR Act. They do not indicate the overall impact of the proposals in the broader context in which breeders, growers, and importers operate.

Issue 1: Term length (increasing costs to breeders/importers)

	Option 1(a) – Status Quo	Option 1(b) – Extend 5y (new registrations only)	Option 1(c) – Extend to 25/30y (existing & new) — Preferred
<b>Investment confidence</b>	0 Ongoing cost pressures and short effective revenue periods persist; no new signal.	+1 Positive signal, but benefits are limited to future grants and only realisable after at least 20 years; immediate confidence effect to new PVRs only.	+2 Immediate certainty and longer revenue window for current portfolios; clearest confidence lift reported by stakeholders.
<b>Fair remuneration ×2</b>	0 No change to offset sunk development/import/trial costs; value capture remains constrained.	+2 Longer term future cost recovery improves, but nothing for existing registrations - benefits from new registration at least 20 years away.	+4 Extends revenue tail for existing and future varieties, matching EU/JP/UK terms; best alignment with late-maturing crops.
<b>Impacts on NZ users (growers/producers/consumers)</b>	0 No change.	0 Minimal, if any, change near term.	-1 Any premium from consuming varieties with current registrations being extended by up to 5 years constrained by ability to plant/use/consumer non-PVR protected substitutes; potential benefit from broader choice if pipeline strengthens. Premiums New Zealand consumers pay also effected by overseas demand for the variety concerned.
<b>Overall assessment</b>	0	+3	+5

95. **Why 1(c) is preferred:** It produces immediate effects for all PVR owners and especially for those varieties where the commercial window is often late, strengthening reinvestment now and as discussed below, modestly lifts IPONZ renewal revenue as some registrations would be held longer.

Issue 2: Pre-grant risk (unauthorised exploitation before grant)

	Option 2(a) – Status quo	Option 2(b) – Pre-grant action with safeguards — Preferred
<b>Increase confidence</b>	0 Reported as weaker than under old Act settings; reliance on private controls and general law; risk of leakage persists for ~2.3 years on average (sometimes much longer); PVR enforcement only after grant; deterrence gap during trials/commercial scale up.	+1 Restores leverage similar to the old Act “provisional protection”, improving perceived ability to manage risk during trials. Adds timely and more cost-effective legal elver from application date to deter theft/unauthorised exploitation during the riskiest window.
<b>Fair remuneration ×2</b>	0 Losses during the pre-grant period are hard to quantify/recover retrospectively, especially when examination periods are long.	+2 Earlier intervention reduces erosion of value for the few successful varieties funding programmes.
<b>Impacts on NZ users (growers/consumers)</b>	0 Users cannot face PVR infringement suits pre-grant (though bad-faith use is still actionable under other laws).	-1 Low risk of entangling good-faith users, mitigated by court safeguards (undertakings/security, judicial discretion).
<b>Overall assessment</b>	0	+2

96. **Why 2(b) is preferred:** It directly targets the period between application and grant (avg ~2.3 years; occasionally much longer), with safeguards to manage good-faith concerns raised in engagement.

Issue 3: Financial sustainability (funding model for the PVR regime)

	<b>3(a) – Status quo</b>	<b>3(b) – Full cost recovery via PVR fees</b>	<b>3(c) – Enable cross-recovery of Patents and PVR — Preferred</b>
<b>Lawfulness &amp; system integrity</b>	-1 Persistent ~\$1m deficit after end of Crown top-ups (30 Jun 2025) threatens lawful, stable administration.	+1 Lawful, but unstable administration from creating major affordability issues for users.	+1 Lawful and stable administration, without creating affordability issues for users.
<b>Cost-effectiveness</b>	0 Fragmented, rigid accounting; no system-level efficiencies.	-1 Same rigidities with higher fees; risks demand contraction and stranded fixed costs.	+1 Shared pool reduces rigidity and improves administrative efficiency across two regimes.
<b>Fair remuneration ×2</b>	0 Ongoing pressure to lift PVR fees undermines investment confidence.	-2 Large fee increases would fall on the small PVR user base; depresses applications/renewals; weaker cost recovery for breeders/importers; decrease in remuneration for breeders and importers; fall in investment confidence.	+2 Keeps PVR fees stable/near current levels so breeders/importers can capture value; spreads costs fairly (so more revenue received may be retained by breeders and importers).
<b>Proportionality &amp; equity of recovery</b>	0 Disproportionate burden on small PVR user base relative to the larger patents user base for receiving common services provided by IPONZ.	-1 Burden on PVR user base increases.	+1 Costs spread over a wider base of users of both the Patents and PVR Acts, with minimal per-user impact.
<b>Compliance costs (all users)</b>	0 No change.	-2 Significant PVR fee increases; risks “most expensive” regime in the world label raised by stakeholders.	+1 Minor patent renewal impact; PVR fees stable; consistent with fee review direction.
<b>Overall assessment</b>	-1	-5	+6

97. **Why 3(c) is preferred:** It stabilises funding with small, broadly distributed impacts, avoiding sharp PVR fee rises that would otherwise shrink the pipeline.

## What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

### *Issue 1: Increasing costs to breeders and importers (term length)*

98. **Option 1(c)** extending the maximum duration for both existing and new PVR registrations to 25/30 years is the preferred option. Feedback indicated that current duration settings (20/23 and 20/25 years depending on plant type and registration date) are not long enough for some breeders and importers to recoup the substantial and rising costs of developing, importing, and trialling new varieties. A longer registration period would increase returns for breeders and importers, which can in turn be used to fund the development and commercialisation of new varieties, strengthen the pipeline of new varieties.
99. **Commercial Information**. Providing a longer revenue runway now - and not just for future registrations - gives immediate support to breeders' cashflow and reinvestment capacity. Stakeholders also noted that New Zealand's current settings lag key export markets that offer 25/30 years, and alignment would support foreign breeders' willingness to supply their varieties to the New Zealand market.
100. Although only around 13% of registrations are maintained to full term, these are typically the most commercially successful varieties. These few successful varieties are crucial, as they provide funding to holders of successful PVRs for the broader breeding/import pipeline, which has seen declining registrations over many years.
101. Option 1(c) also yields a small, but immediate, benefit for addressing Issue 3, as IPONZ would see an increase in renewal fee revenue as some registrations would be maintained for longer.

### *Issue 2: Unauthorised exploitation of new varieties (pre-grant risk)*

102. **Option 2(b)** allowing legal action to enforce a PVR from the date of application, subject to safeguards is preferred.
103. The average time between application and grant is around 2.3 years, with some cases taking significantly longer. During this period, breeders must run multi-site growing trials and scale up propagating material, which increases opportunities for theft and unauthorised commercial exploitation. Because enforcement under the PVR Act only begins after grant, losses occurring in the pre-grant window can be substantial, difficult to quantify, and damaging to eventual commercialisation returns.
104. Option 2(b) provides a timely and cost-effective enforcement mechanism to deter and respond to theft during this vulnerable period, improving investment confidence and protecting the value of varieties where most commercial risk sits. Although stakeholders expressed mixed views, they generally supported restoring the old Act's provisional protection. Concerns about impacts on innocent growers can be addressed through explicit safeguards requiring the courts to consider undertakings or security to compensate defendants if an application is later refused.
105. This targeted mechanism strengthens protection without over-reaching and is the most effective option for reducing pre-grant commercial risk.

### *Issue 3: Financial viability of the PVR regime*

106. **Option 3(c)** amending fee-charging provisions of the Patents Act and PVR Act to enable cross-recovery across the two regimes is clearly preferred.
107. The PVR Act currently costs around \$1.7 million annually to administer, but fee revenue covers only ~\$0.7 million, leaving a structural deficit following the end of Crown top-ups on 30 June 2025. The status quo is not financially sustainable, and shifting to full cost recovery through higher PVR fees (Option 3(b)) would impose a higher burden on a very small user base to pay for common services provided by IPONZ under the Patents Act, risking further reductions in applications and weakening of the pipeline.
108. The PVR Act is a relatively small regime for IPONZ to administer compared to the Patents Act. There are around 24,000 granted patents and 1,280 granted plant variety rights.
109. Option 3(c) distributes costs more equitably across patent and PVR users, reflecting shared infrastructure (including overheads, case management facility, and client information services provided) used by IPONZ across the two regimes. Stakeholders strongly supported this approach, which helps to avoid steep fee increases for breeders and importers, whilst having a minimal per-user impact on patent users and innovation incentives under the Patents Act.
110. This option provides a lawful, durable, and fair funding model.

#### *All three options support the primary objective*

111. The combined package - Option 1(c) (extend duration for existing and new registrations), Option 2(b) (targeted pre-grant enforcement with safeguards), and Option 3(c) (cross-recovery across registers) - most effectively supports the primary objective of increasing productivity and contributing to the Government's goal of doubling export returns for agriculture and related sectors by 2034.
112. Together, the options directly address the three core issues identified, within scope of the PVR Act, by stakeholders:
  - a. insufficient revenue runway to recover costs where commercialisation is long-tailed,
  - b. elevated pre-grant risk of unauthorised exploitation, and
  - c. an unsustainable, narrow fees base within the PVR Act.
113. While these changes cannot solve all pressures in the breeding and importing ecosystem, complex market conditions and shifting consumer demand, we concluded that they will provide enough relief to the sector to materially improve investment confidence, protect commercial value, and stabilise the regulatory infrastructure, supporting a healthier and growing pipeline of new varieties over time.

#### **Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?**

114. Yes.

## What are the marginal costs and benefits of the preferred option in the Cabinet paper?

115. **Scope:** Marginal (additional) impacts of implementing all three preferred proposals together: extend maximum term for existing and new PVRs (five years), enable pre-grant enforcement with safeguards, and cross-recover IPONZ costs across patents and PVR.
116. **Note:** Where impacts are market-driven (renewing registrations, licensing, using and consuming PVR protected varieties), parties can readily switch to cheaper non-PVR protected substitutes if value is not present; this limits pass-through and keeps many costs voluntary.

Affected groups	Comment	Impact	Evidence Certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
PVR owners (breeders and importers)	<ul style="list-style-type: none"> <li>Extending term creates extra optional renewal years; some licences may need to be varied to capture the additional term (many standard licences already anticipate term changes with notice).</li> </ul>	<ul style="list-style-type: none"> <li>Annual renewal fee: \$385 + GST per right for each extra year (prescribed in PVR Regs 2023). Licence-variation time/costs will vary. Owners will renew only if value exceeds cost.</li> </ul>	<b>High</b> for fee amount; <b>Medium</b> for prevalence/size of licence variations.
Growers	<ul style="list-style-type: none"> <li>If continuing with licensed PVR protected varieties, royalties/fees may apply for longer. However, growers may switch to growing non-PVR protected varieties, if the expected returns (yield/quality/market premium) don't justify paying additional royalties/fees.</li> </ul>	<ul style="list-style-type: none"> <li>Variable, market-driven. Any premium is constrained by substitution and competition from non-PVR protected varieties. Some multi-year licences tied to the current maximum term may be revisited if parties wish to extend.</li> <li>In some sectors growers (eg fruit trees and vines) may incur additional costs to switch to cheaper non-PVR varieties (eg</li> </ul>	<b>Medium</b> (behaviour depends on crop economics; impacts differ by sector).

		replanting/grafting new trees or vines).	
Producers	<ul style="list-style-type: none"> <li>Where inputs come from protected varieties, input costs could persist for longer; producers normally have alternatives and can adjust formulations/sourcing.</li> </ul>	<ul style="list-style-type: none"> <li>Low–Medium; depends on substitutability and product strategy. Complex supply chains make aggregate impact small and diffuse.</li> </ul>	<ul style="list-style-type: none"> <li><b>Low–Medium</b> (heterogeneous supply chains).</li> </ul>
New Zealand consumers	<ul style="list-style-type: none"> <li>Longer term can maintain premiums on some branded/variety products; consumers choose substitutes if price/quality/characteristics trade-off isn't attractive; prices are also driven by demand from export markets.</li> </ul>	<ul style="list-style-type: none"> <li>Low (aggregate). Effects are moderated by substitution and international pricing dynamics. Not readily quantifiable.</li> </ul>	<ul style="list-style-type: none"> <li><b>Low–Medium.</b></li> </ul>
Overseas consumers	<ul style="list-style-type: none"> <li>As for NZ, any price effects accrue to NZ export returns, rather than domestic costs.</li> </ul>	<ul style="list-style-type: none"> <li>Low overall: competitive global markets and varietal substitution apply.</li> </ul>	<ul style="list-style-type: none"> <li><b>Low–Medium.</b></li> </ul>
IPONZ	<ul style="list-style-type: none"> <li>Minor one-off system/configuration work to accommodate longer terms and implement cross-recovery once legislated; annual renewals already supported.</li> </ul>	<ul style="list-style-type: none"> <li>Trivial one-off cost (absorbed in business-as-usual change).</li> </ul>	<ul style="list-style-type: none"> <li><b>Medium–High</b> (IPONZ assessment).</li> </ul>
Patent users	<ul style="list-style-type: none"> <li>Very minor fee increases likely for some patent users, following a wider IPONZ fees review.</li> </ul>	<ul style="list-style-type: none"> <li>Minimal change to some patent user fees.</li> </ul>	<ul style="list-style-type: none"> <li><b>Medium</b> (IPONZ assessment based upon some initial advice arising from a wider IPONZ fees review currently underway).</li> </ul>

<b>Total monetised costs</b>	<i>Principal monetised cost is voluntary renewals fees paid by PVR owners in out-years to maintain their registrations to the new maximum duration. Growers would pay PVR royalties for longer to grow the most successful PVR protected varieties. Some patent users may pay slightly higher fees to use IPONZ services. Patent users</i>	—	—
<b>Non-monetised costs</b>	<i>Licence variation effort (where chosen); possible short-run disputes risk pre-grant (mitigated by court safeguards).</i>	<i>Low–Medium overall</i>	—
<b>Additional benefits of the preferred option compared to taking no action</b>			
PVR owners (breeders and importers)	<ul style="list-style-type: none"> <li>• Longer revenue runway (existing and new rights) supports cost recovery and investment incentives; pre-grant enforcement reduces value erosion during trials/scale-up; alignment with key markets supports access to foreign varieties.</li> </ul>	<ul style="list-style-type: none"> <li>• Material but unquantified uplift concentrated in a small share of commercially successful varieties - the profits from which fund successful PVR holders' future programmes.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Low</b> (substantiated by stakeholder claims; limited public data to model impact on pipeline).</li> </ul>
Growers	<ul style="list-style-type: none"> <li>• Stronger, more investable IP duration and better protection encourages supply of high-performing varieties over time; growers adjust plantings based on expected returns.</li> </ul>	<ul style="list-style-type: none"> <li>• Qualitative productivity/quality gains; realised via adoption choices.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Medium.</b></li> </ul>

Producers	<ul style="list-style-type: none"> <li>• More reliable access to distinctive traits/quality that support value-added products and brand differentiation.</li> </ul>	<ul style="list-style-type: none"> <li>• Qualitative value-add potential; varies by product/market.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Low–Medium.</b></li> </ul>
New Zealand consumers	<ul style="list-style-type: none"> <li>• Potential for greater variety choice and quality attributes as the pipeline strengthens.</li> </ul>	<ul style="list-style-type: none"> <li>• Qualitative (choice/quality/seasonal availability).</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Low.</b></li> </ul>
Overseas consumers	<ul style="list-style-type: none"> <li>• As above, with effects showing up in NZ export offerings and availability.</li> </ul>	<ul style="list-style-type: none"> <li>• Qualitative; market-specific.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Low.</b></li> </ul>
IPONZ	<ul style="list-style-type: none"> <li>• Higher renewal revenue as more registrations are held longer; lawful, durable funding by enabling cross-recovery stabilises service levels.</li> </ul>	<ul style="list-style-type: none"> <li>• Monetised: ~\$48k/year renewal uplift (indicative). Cross-recovery addresses the ~\$1m annual deficit without steep PVR fee hikes.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>High</b> for renewal arithmetic; <b>Medium–High</b> for overall funding stabilisation (depends on fee-setting decisions across the two regimes).</li> </ul>
<b>Total monetised benefits</b>	<i>IPONZ renewal uplift; broader monetisation not attempted due to heterogeneity and data limits.</i>	—	—
<b>Non-monetised benefits</b>	<i>Investment confidence; reduced pre-grant losses; financial sustainability without sharp PVR fee rises; potential incremental pipeline and productivity gains, and export returns.</i>	<i>Medium overall</i>	—

117. On balance, net benefits for the preferred package are expected to be positive. Costs that are borne by users are largely voluntary and market-constrained (eg PVR owners renew only if value is greater than cost; growers/producers choose readily available substitutes). Benefits accrue where they matter most for pipeline health - successful varieties that fund future programmes - and to the financial stability of the register via cross-recovery, avoiding sharp PVR fee rises that would otherwise depress participation and pipeline health.

## Section 3: Delivering an option

---

### How will the proposal be implemented?

118. Implementation will occur through amendments to the *Plant Variety Rights Act 2022* and targeted amendments to the *Patents Act 2013*, supported by minor operational changes within IPONZ and updated sector guidance. The implementation package is largely limited to the PVR Act, with a minor change to the fee-charging provisions of the Patents Act, consistent with portfolio scope and fiscal constraints.
119. The preferred options require no structural system rebuilds and can be delivered within standard legislative and operational processes, with proportionate stakeholder engagement.

### Implementation approach

120. **Legislation:** Amend the PVR Act and Patents Act to:
  - a. extend maximum PVR terms to 25/30 years for existing and new registrations;
  - b. restore old Act provision protection with explicit court safeguards (undertakings/security, judicial discretion);
  - c. enable cross-recovery of administration costs across patents and PVR regimes.
121. These amendments respond directly to stakeholder-identified issues of insufficient revenue window, pre-grant risk of misappropriation of new varieties, and an unsustainable PVR fees regime.
122. **IPONZ systems:** Make minor configuration updates to allow renewals in the extended term and to reflect new fee-charging provisions. IPONZ's electronic case management facility already supports annual renewals and would not require redevelopment.
123. **Guidance and engagement:** Update guidance for breeders, importers, growers and licensees explaining (a) how pre-grant enforcement would work, including safeguards measures, and (b) how the extended term affects renewals and licensing. Targeted communication will minimise uncertainty and support smooth adoption.

### Implementation risks and mitigations

124. **Licensing transition risk:** Some existing licences may need variation to capture the extended term.
125. *Mitigation:* Provide sector guidance; note that several standard licences already anticipate term changes.
126. **Pre-grant litigation risk:** Potential for premature or vexatious claims.
127. *Mitigation:* The legislative safeguards (security/undertakings, court discretion) ensure proportionality and protect good-faith users. Guidance will emphasise evidential thresholds.
128. **Fee-setting alignment:** Cross-recovery requires alignment across the broader IPONZ fee review.
129. *Mitigation:* Model patent and PVR fees together, consult users, and maintain PVR fees near current levels, consistent with stakeholder preferences and the RIS objectives.

## **How will the proposal be monitored, evaluated, and reviewed?**

130. Monitoring will be led by MBIE policy in partnership with IPONZ. Indicators draw directly from the issues identified - pipeline health, PVR application and registration trends, enforcement activity, and financial sustainability. Although these metrics allow visibility of whether the package is delivering improved incentives and reduced risk, the long lead times to develop, register and commercialise new varieties may mean the effects and trends would not become apparent for some time after implementation (eg five to 10 years).

### **Monitoring and evaluation**

131. **Pipeline indicators:**
132. PVR applications and grants by plant category;
- a. average time from application to grant (noting current average ~2.3 years and occasional outliers);
  - b. proportion of registrations maintained to years 20/25/30 (a proxy for longer term commercial success).
133. **Commercialisation proxies:**
- a. PVR protected varieties with active licences observed through sector feedback;
  - b. grower adoption trends observed through sector feedback
  - c. export returns for PVR protected varieties.
134. **Enforcement signals:**
- a. number, nature and outcome of pre-grant enforcement actions;
  - b. any court-ordered security/undertakings to protect good-faith parties;
  - c. stakeholder feedback on deterrence and misappropriation risks prior to grant of PVRs.
135. **Cost metrics:**
- a. IPONZ's aggregate cost-recovery performance across patents and PVRs;
  - b. trends in per-user fees;
  - c. any operational impacts from cross-recovery on service levels.

### **Review**

136. A review would be undertaken at 24 months post-commencement to assess initial utilisation, enforcement activity, and funding performance. A fuller evaluation will occur after five years, assessing progress against the core objectives:
- a. improved investment confidence;
  - b. strengthened ability to achieve fair remuneration;
  - c. minimal unintended impacts on growers, producers and consumers;
  - d. improved financial sustainability of the regime.
137. These reviews will inform whether further refinements are required to support a healthy pipeline of new varieties and durable regulatory infrastructure.

## Annex One: PVR register and renewal statistics

1. **Table 1** below outlines some key information about the PVR regime relevant to the analysis in this RIS.

Table 1: PVR registrations and renewal statistics

	Register June 2005	Register June 2025	% increase	% Register 2025	% PVR held 10+ years from grant	% PVR held to full term (20 or 23 years)
<b>Agricultural crops</b>	62	85	37%	7%	38%	11%
<b>Fruit and nuts</b>	306	362	18%	29%	57%	27%
<b>Fungi (including grass endophytes)</b>	9	27	200%	2%	100%	75%
<b>Ornamental s and forest trees</b>	1157	546	-53%	44%	38%	10%
<b>Pasture plants and amenity grasses</b>	115	111	-3%	9%	63%	29%
<b>Vegetables (including potatoes)</b>	114	119	4%	10%	26%	12%
<b>Total</b>	<b>1763</b>	<b>1250</b>	<b>-29%</b>	<b>100%</b>	<b>40%</b>	<b>13%</b>