



Plant Variety Rights Regulations 2022

Cindy Kiro, Governor-General

Order in Council

At Wellington this 19th day of December 2022

Present:

The Right Hon Jacinda Ardern presiding in Council

These regulations are made under section 156 of the Plant Variety Rights Act 2022 on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Commerce and Consumer Affairs.

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Regulations

1 Title

These regulations are the Plant Variety Rights Regulations 2022.

2 Commencement

These regulations come into force on 24 January 2023.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Plant Variety Rights Act 2022

address for service means one of the following addresses in New Zealand or Australia:

- (a) a postal address;
- (b) a post office box or document exchange box

agent means a person—

- (a) who is authorised by the person's principal (**X**) to act for **X** in any proceeding in accordance with these regulations or to take any step on **X**'s behalf under these regulations; and
- (b) for whom recognition has not been refused by the Commissioner under regulation 31

anniversary date, in relation to a renewal fee for a PVR, means the anniversary of the date on which the PVR was granted

case management facility means the case management facility that may be accessed through the Commissioner's website or web services

certificate of verification means a statement—

- (a) that a document to which the statement relates is a true and complete translation of the accompanying document to the best of the knowledge of the person who signs the statement; and
- (b) that is dated and signed

communication address means an electronic address at which communications may be received from the case management facility

proceeding means a proceeding under the Act or these regulations

verified translation means a translation into English of an accompanying document that has a certificate of verification attached

working day means a day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro Ki a Matariki/Matariki Observance Day, Labour Day, and Waitangi Day; and
 - (b) the anniversary day for the province of Wellington; and
 - (c) a day in the period that commences with 25 December in any year and ends with 2 January in the following year; and
 - (d) if 1 January in any year falls on a Friday, the following Monday; and
 - (e) if 1 January in any year falls on a Saturday or a Sunday, the following Monday and Tuesday; and
 - (f) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday.
- (2) An example used in these regulations has the following status:
- (a) the example is only illustrative of the provision to which it relates and does not limit the provision; and
 - (b) if the example and the provision to which it relates are inconsistent, the provision prevails.

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

5 Application

These regulations apply to all matters under the Act.

Part 1

Miscellaneous

Subpart 1—Non-indigenous plant species of significance

6 Non-indigenous plant species of significance

A **non-indigenous plant species of significance** is a species listed in Schedule 2.

Subpart 2—Fees

General provisions

7 Amount of fees

- (1) The fees set out in Schedule 3 are payable in respect of the matters set out in that schedule.
- (2) The fees are exclusive of goods and services tax (if any).
- (3) However, subclause (1) is subject to clause 8 of Schedule 1 of the Act (which is a transitional provision relating to the payment of fees).

Compare: LI 2014/275 r 5

8 Time of payment of fees

Fees must be paid at the time of making an application or a request, or on giving notice or filing information or a document, in respect of which a fee is payable, unless an arrangement acceptable to the Commissioner has been made for payment at another time.

Compare: LI 2014/275 r 6

9 Form of payment of fees

Fees must be paid by electronic means.

Compare: LI 2014/275 r 7

Renewal fees

10 When renewal fees become due

A renewal fee becomes due on each anniversary date,—

- (a) in the case of a plant variety that is a woody plant or its root stock, or a potato, until the 24th anniversary date that occurs on or after the date on which the PVR is granted:
- (b) in the case of any other variety, until the 19th anniversary date that occurs on or after the date on which the PVR is granted.

Compare: LI 2014/275 r 8

11 Period within which renewal fees must be paid

- (1) The holder of a PVR must pay the renewal fee specified in Schedule 3 in accordance with subclause (2).
- (2) The prescribed period under section 92(1) of the Act within which a renewal fee must be paid is each period of 3 months ending with the close of the anniversary date.

Compare: LI 2014/275 r 10

12 Certificate of payment of renewal fees

After receipt of a renewal fee, the Commissioner must issue a certificate to the PVR holder that specifies—

- (a) details of the PVR; and
- (b) the date on which the fee was paid; and
- (c) the amount of the fee; and
- (d) the period in respect of which the fee was paid.

Compare: LI 2014/275 r 11

Subpart 3—Forms and documents*Use of case management facility***13 Certain information or documents must be given electronically through case management facility**

- (1) Any information or document that the Act or these regulations requires to be given to or by the Commissioner in the prescribed manner must be given electronically—
 - (a) through the case management facility; and
 - (b) in a file format of a type approved by the Commissioner.
- (2) Anything that is given using the case management facility must be treated as having been received—
 - (a) by the Commissioner, at the time when the information or document becomes accessible to the Commissioner through the case management facility; or
 - (b) by a person other than the Commissioner, at the time when the Commissioner notifies the person at the person's communication address that the information or document is accessible to the person through the case management facility.
- (3) Only the Commissioner may use the case management facility to give information or a document to a person other than the Commissioner.

Compare: LI 2014/275 r 12

14 Case management facility is prescribed electronic delivery method for certain purposes

The case management facility is—

- (a) the prescribed electronic delivery method for the purpose of section 152(2) and (3)(a) of the Act; and
- (b) the prescribed manner in which matters described in section 156(1)(c)(ii) and (iii) of the Act (for example, PVR applications) are to be dealt or proceeded with, including the manner in which communications with the Commissioner are to be conducted (to the extent provided by the case management facility); but
- (c) not a prescribed electronic delivery method for the purpose of section 153(1)(c) of the Act.

Compare: LI 2014/275 r 13

15 Information that must be given when case management facility first used

The following information must be given to the Commissioner, to the extent that the case management facility requires, when any information or document is first given to the Commissioner in respect of a matter through the case management facility:

- (a) the full name of the person giving the information or document or on whose behalf the information or document is given (for example, the applicant or the opponent) (the **person**); and
- (b) the person's address for service, if required by regulation 24; and
- (c) the person's communication address; and
- (d) the name of the person's agent, if an agent is acting, or will act, for the person.

Compare: LI 2014/275 r 14

16 Number of PVR application or PVR must be given when any information or documents filed under Act or regulations

Any information or document given to the Commissioner under the Act or these regulations must contain, or be filed with, the number of the PVR application or PVR (if any) that is the subject of the application, request, assertion, opposition, or other matter in respect of which the information or document is given.

Compare: LI 2014/275 r 15

17 Information or documents may be given by alternative delivery method

- (1) Despite regulation 13, the Commissioner may allow information or documents to be given to the Commissioner by an alternative delivery method listed in subclause (2) if the Commissioner is satisfied that a person is unable to access

the case management facility because of any exceptional circumstances beyond the person's control.

- (2) **Alternative delivery method** means delivery by 1 or more of the following methods:
- (a) in person:
 - (b) post:
 - (c) courier:
 - (d) electronic mail.
- (3) The same rules that apply in respect of service of notices under section 153 of the Act apply to the giving of information and documents by post or electronic mail.

Compare: LI 2014/275 r 16

18 Electronic documents

To avoid doubt, any requirement in these regulations that a document must be in writing is satisfied if the document complies with section 222 of the Contract and Commercial Law Act 2017.

Compare: LI 2014/275 r 17

Filing

19 Number of copies

- (1) The Commissioner may require an additional copy, or additional copies, of any information or document that is filed.
- (2) The requirement in subclause (1) may include a requirement for 1 or more documents that are filed electronically to be provided on paper or in a different format.

Compare: LI 2014/275 r 18

20 Document filed when received in proper form

- (1) A document is filed when it is received in proper form.
- (2) A document is in **proper form** only if—
- (a) it is legible; and
 - (b) it is accompanied by the prescribed fee, if any.

Compare: LI 2014/275 r 19

21 Filing date of document if not received on working day

If a document is received on a day that is not a working day, the document is treated as having been filed on the next working day.

Compare: LI 2014/275 r 20

*Requirements for documents***22 Documents must be in English or Māori**

- (1) All documents filed must be in English or Māori.
- (2) However, a person may, if it is necessary to do so, file a document that is not in English or Māori if the document is accompanied by a verified translation.

Compare: LI 2014/275 r 21

23 Signatures

- (1) In the following cases, a document must be signed for the purposes of these regulations as follows:
 - (a) in the case of a partnership, the document must—
 - (i) contain the full names of all partners, unless a list of the current partners has been filed; and
 - (ii) be signed by a qualified partner or another person who has, to the Commissioner's satisfaction, authority to sign:
 - (b) in the case of a body corporate, the document must be signed by a director or senior manager who has, to the Commissioner's satisfaction, authority to sign:
 - (c) in the case of an unincorporated association, the document may be signed by a person who appears to the Commissioner to be duly qualified.
- (2) To avoid doubt, a document may be signed in accordance with section 226 of the Contract and Commercial Law Act 2017.

Compare: LI 2014/275 r 22

Subpart 4—Addresses**24 Address for service must be given**

- (1) The following persons must give the Commissioner an address for service at the time when the person first gives any information or document to the Commissioner in respect of a matter:
 - (a) an applicant:
 - (b) a PVR holder:
 - (c) an agent:
 - (d) any party to a proceeding or any person intending to be a party to a potential proceeding.
- (2) For the purpose of any communication with the Commissioner in the name of 2 or more persons with different addresses, the Commissioner may require 1 address for service to be given.

Compare: LI 2014/275 r 34

25 Communication address must be given

- (1) A person must give the Commissioner notice of a communication address at the time when the person first gives any information or document to the Commissioner in respect of a matter.
- (2) For the purpose of any communication with the Commissioner in the name of 2 or more persons with different addresses, the Commissioner may require 1 communication address to be given.

Compare: LI 2014/275 r 35

26 Change of address notice must be given

- (1) A person who gives the Commissioner an address for service or a communication address must, if the address changes, give the Commissioner a notice of change of address as soon as practicable after the change occurs.
- (2) If the address of an agent changes, the agent must give the Commissioner a notice of change of address as soon as practicable after the change occurs.

Compare: LI 2014/275 r 36

27 Sufficiency of address

An address that is given to the Commissioner under these regulations must be sufficiently detailed to enable the Commissioner to contact the addressee at that address.

Compare: LI 2014/275 r 37

Subpart 5—Agents

28 Agent may act on behalf of principal for purposes of regulations

- (1) Subject to the scope of an agent's authority, the agent may act for the agent's principal (X) in any proceeding in accordance with these regulations or take any step (including the signing of documents) on X's behalf under these regulations.
- (2) However, the Commissioner may in any case require that a document that must be signed for the purposes of these regulations be signed by the principal and not by the agent.

Compare: LI 2014/275 r 38

29 Commissioner may give notices to agent

- (1) The Commissioner satisfies any requirement under these regulations to give documents or notice to, or correspond with, a person by giving documents or notice to, or corresponding with, that person's agent.
- (2) Subclause (1) does not apply to the extent that any written authority that is filed by the agent's principal expressly excludes the authority of the agent for any of the matters specified in subclause (1).

Compare: LI 2014/275 r 39

30 Commissioner may require principal of agent to file authority with Commissioner in certain cases

- (1) This regulation applies if—
 - (a) the Commissioner receives a communication from a person who refers to himself or herself in the communication as an agent (**A**) of a principal (**X**) and, at the time of the communication, the Commissioner does not have an authority in respect of A that complies with the requirements in subclause (3); or
 - (b) the Commissioner has an authority in respect of an agent that complies with the requirements in subclause (3) and the Commissioner receives a communication informing the Commissioner that the principal (**X**) has appointed a new agent (**A**).
- (2) The Commissioner may require X to file, within the specified time, a written authority in respect of A.
- (3) The written authority must—
 - (a) be signed by X and not by an agent; and
 - (b) contain the following information:
 - (i) A's name and address for service; and
 - (ii) if A is authorised to act in respect of a particular PVR or PVR application, the number of the PVR or PVR application; and
 - (iii) a statement of any limitation on the authority of A to act on X's behalf.
- (4) In subclause (2),—
 - (a) **specified time** means the time that the Commissioner specifies in the requirement made under subclause (2); and
 - (b) the specified time must be not less than 1 month after the date on which the Commissioner receives the communication referred to in subclause (1).

Compare: LI 2014/275 r 40

31 Refusal to recognise person as agent

- (1) The Commissioner must refuse to recognise as an agent in respect of any proceedings a person who neither resides nor carries on business in New Zealand or Australia.
- (2) The Commissioner may refuse to recognise as an agent a person—
 - (a) who is suspended from practice by the Intellectual Property Office of New Zealand; or
 - (b) whose registration as a patent attorney is suspended or cancelled for the purposes of Part 6 of the Patents Act 2013; or

- (c) whose name has been removed from or struck off the roll of barristers and solicitors under the Lawyers and Conveyancers Act 2006 and has not been restored to the roll; or
- (d) who is suspended from practice as a barrister or solicitor; or
- (e) who has been convicted of an offence specified in Part 10 (except sections 267 and 268) of the Crimes Act 1961 or who has been convicted of an equivalent offence in another country.

Compare: LI 2003/187 r 23; LI 2014/275 r 41

32 Commissioner must notify refusal to recognise person as agent

If the Commissioner refuses to recognise a person as an agent, the Commissioner must, as soon as practicable, notify that person and that person's principal.

Compare: LI 2003/187 r 24; LI 2014/275 r 42

33 Notice to Commissioner of revocation or alteration of authority

- (1) A principal (**X**) must, as soon as practicable, give written notice to the Commissioner of the revocation or alteration of the authority of **X**'s agent (**A**).
- (2) The notice must—
 - (a) be signed by **X**, and not by an agent; and
 - (b) contain the information set out in subclause (3).
- (3) The notice must contain the following information:
 - (a) **X**'s name and address for service:
 - (b) **A**'s name:
 - (c) if **A** is authorised to act in respect of a particular PVR or PVR application, the number of the PVR or PVR application:
 - (d) if **A**'s authority is revoked, a statement to that effect:
 - (e) if **A**'s authority is altered, a statement setting out—
 - (i) the alteration in authority; and
 - (ii) the matters for which **A** continues to have authority.
- (4) Notice to the Commissioner of the revocation or alteration of the authority of an agent is effective—
 - (a) if it complies with this regulation; and
 - (b) when it is received by the Commissioner.

Compare: LI 2014/275 r 43

34 Agent may give notice of revocation or alteration of authority

- (1) An agent (**A**) of a principal (**X**) may give written notice to the Commissioner of the alteration or revocation of **A**'s authority as **X**'s agent.

- (2) The notice must be signed by A and contain the information described in sub-clause (3).
- (3) The notice must contain the following information:
 - (a) X's name and address for service:
 - (b) A's name:
 - (c) if A is authorised to act in respect of a particular PVR or PVR application, the number of the PVR or PVR application:
 - (d) if A's authority is revoked, a statement to that effect:
 - (e) if A's authority is altered, a statement setting out—
 - (i) the alteration in authority; and
 - (ii) the matters for which A continues to have authority.
- (4) Notice to the Commissioner of the alteration or revocation of the agent's authority is effective—
 - (a) if it complies with this regulation; and
 - (b) when it is received by the Commissioner.

Compare: LI 2014/275 r 44

Part 2

Process for obtaining grant of plant variety rights and other matters

Subpart 1—PVR applications

PVR applications

35 Application for PVR

- (1) The prescribed manner for making a PVR application is as follows:
 - (a) the application must be made in accordance with Part 1; and
 - (b) the application must contain, or be accompanied by, the following information:
 - (i) the information set out in section 38(2) of the Act:
 - (ii) the name and address of each applicant:
 - (iii) the name and address of the original breeder (if not the applicant):
 - (iv) if the applicant is not the original breeder, evidence (if the Commissioner requests) that the applicant is authorised to make the PVR application.
- (2) If the name or address of an applicant changes from that notified, the applicant must give the Commissioner a notice of the change as soon as practicable after the change occurs.

Compare: LI 2014/275 r 50

36 Colour photographs to be supplied with certain applications

- (1) This regulation applies to every plant variety that is fruit, an ornamental variety, or a vegetable (including a potato).
- (2) A PVR application for a plant variety to which this regulation applies must be accompanied by—
 - (a) a satisfactory photograph of all or part of a typical plant of the variety showing the variety's distinguishing features; or
 - (b) 2 or more satisfactory photographs (each being a photograph of all or part of a typical plant of the variety) that together show the variety's distinguishing features.
- (3) A photograph is **satisfactory** if—
 - (a) it is a photograph based on plants propagated from the original plant or plant part; and
 - (b) it is clear enough and large enough to enable the subject matter to be easily identified.

Compare: SR 1988/101 r 5A

37 Quantities of propagating material to be provided with applications

- (1) A PVR application for a variety of a kind of plant described in the first column of Schedule 4 must be accompanied by the quantity of propagating material specified (opposite the description) in the second column of Schedule 4, together with the quantity, if any, of seed ears specified (opposite the description) in the third column of Schedule 4 (which, in accordance with section 38(2)(c) of the Act, must be sent to the Commissioner or a person nominated by the Commissioner).
- (2) The standard of purity and germination of the propagating material must be acceptable to the Commissioner.

38 Prescribed dates for filing proposed denominations

- (1) For the purpose of section 38(3) of the Act, the prescribed date for filing the proposed denomination for the plant variety with the Commissioner is 12 months after the date of the application unless the Commissioner grants an extension of time in accordance with subclause (2).
- (2) An applicant for a PVR may, before the expiry of the 12-month period referred to in subclause (1), request the Commissioner to extend that period by a specified period not exceeding 3 months, and the Commissioner may grant that request if the Commissioner considers it reasonable to do so in the circumstances.

39 Prescribed time for filing 1 or more alternative denominations

- (1) For the purpose of section 53(1) of the Act, the prescribed time for filing 1 or more alternative denominations for the plant variety is 3 months from the date

of receiving notice from the Commissioner under section 53(1) of the Act unless the Commissioner grants an extension of time in accordance with subclause (2).

- (2) An applicant for a PVR may, before the expiry of the 3-month period referred to in subclause (1), request the Commissioner to extend that period for a specified period not exceeding 1 month, and the Commissioner may grant that request if the Commissioner considers it reasonable to do so in the circumstances.

40 Variation of PVR application to alter denomination

A variation notice under section 40(1) of the Act seeking to alter the denomination sought for a plant variety must—

- (a) contain a request to change the denomination; and
- (b) include the denomination to be altered; and
- (c) include the proposed replacement denomination; and
- (d) include a summary of the reasons why the applicant is proposing a new denomination.

41 Prescribed times for applicant to supply propagating material or further information required by Commissioner

- (1) The prescribed time for an applicant for a PVR to comply with a request by the Commissioner under section 48(1) of the Act for propagating material is the time set by the Commissioner within the period beginning 1 month after the date of the Commissioner's request and ending on the day that is 2 years after the date of the request, unless the Commissioner extends that period under subclause (3).
- (2) The prescribed time for an applicant for a PVR to comply with a request for information under section 48(2) of the Act is the time set by the Commissioner within the period beginning 1 month after the date of the Commissioner's request and ending on the day that is 1 year after the date of the request, unless the Commissioner extends that period under subclause (3).
- (3) An applicant for a PVR may, before the expiry of the period referred to in subclause (1) or subclause (2), as the case requires, request the Commissioner to extend that period, and if the Commissioner considers it reasonable in the circumstances to do so the Commissioner may,—
 - (a) in the case of a request relating to the period in subclause (1), extend the period on 1 or more occasions for a further period not exceeding 2 years for each extension;
 - (b) in the case of a request relating to the period in subclause (2), extend the period for a further period not exceeding 1 year.

42 Prescribed requirements under section 49(5) of Act

The prescribed requirements under section 49(5) of the Act for a growing trial are that the Commissioner may impose conditions to be complied with by the person or persons conducting the growing trial relating to 1 or more of the following:

- (a) the location and timing of the growing trial;
- (b) the trial design;
- (c) the varieties to be included in the growing trial;
- (d) how the growing trial will be overseen and by whom;
- (e) any other conditions necessary to ensure that the growing trial is undertaken in a manner that is satisfactory to the Commissioner.

43 Reliance on report produced under section 49(2)(d) of Act

- (1) This regulation applies if the Commissioner decides that a growing trial is to be undertaken under section 49(2)(d) of the Act by or on behalf of an authority of another State.
- (2) If more than 1 report is produced in relation to the growing trial, the Commissioner may decide, as the Commissioner thinks fit, which report will be used for the purposes of assessing the application.

44 Prescribed times for payment of growing trial and examination fees

- (1) The prescribed time for paying fees due under section 50(1) or (2) of the Act is 2 months after the Commissioner has requested payment under section 50(3), unless that period is extended under subclause (2).
- (2) An applicant for a PVR may, before the expiry of the period referred to in subclause (1), request the Commissioner to extend the period for payment of the fee, and the Commissioner may extend the period to a specified date, if the Commissioner is satisfied that there are exceptional circumstances that justify the extension.

Compare: LI 2014/275 r 93

45 Matters that must be included in notice of opposition

- (1) The prescribed manner in which a person may oppose the grant of a PVR under section 51(1) of the Act is by filing a notice of opposition that—
 - (a) must include the ground or grounds on which the grant of the PVR is opposed; and
 - (b) must be accompanied by a statement of case that sets out the facts on which the opponent relies and the relief sought.
- (2) The Commissioner must give the applicant a copy of the notice of opposition and statement of case.

Compare: LI 2014/275 r 92

46 Prescribed period within which notice of opposition to proposed denomination may be filed

- (1) The prescribed period for filing a notice of opposition under section 51(2)(b)(i) of the Act is within 3 months after the date of the publication of the denomination in the journal, unless that period is extended under subclause (2).
- (2) A person wishing to oppose the proposed denomination may, before the end of the 3-month period referred to in subclause (1), request the Commissioner to extend that period by a specified period not exceeding 1 month, and the Commissioner may grant that request if the Commissioner considers it reasonable to do so in the circumstances.
- (3) The Commissioner must not extend the period for filing a notice of opposition if the request for extension is received after the period for filing the notice has expired.

Compare: LI 2014/275 r 93

47 Counter-statement to notice of opposition

- (1) An applicant for a PVR must file a counter-statement within 2 months after receiving a copy of the notice of opposition and of the statement of case filed under section 51(1) of the Act.
- (2) The counter-statement must set out the grounds on which the opposition is contested.
- (3) If the applicant does not file a counter-statement within the prescribed period, the PVR application must be treated as having been abandoned.
- (4) The opponent may, within 4 months after receiving the copy of the counter-statement, file evidence in support of their case.
- (5) The applicant may file evidence in support of the applicant's case within 4 months after receiving the copy of the opponent's evidence or, if the opponent does not file any evidence, within 4 months after the expiry of the period within which the opponent's evidence might have been filed.
- (6) The opponent may, within 3 months after receiving the copy of the applicant's evidence, file evidence confined to matters strictly in reply.

Compare: LI 2014/275 r 94

48 Prescribed times for supply by applicant or PVR holder of propagating material or further information required by Commissioner

- (1) The prescribed time for a PVR holder to comply with a request by the Commissioner under section 75(1) of the Act for information is the time set by the Commissioner within the period beginning 1 month after the date of the Commissioner's request and ending on the day that is 1 year after the date of the request, unless the Commissioner extends that period under subclause (3).
- (2) The prescribed time for an applicant for a PVR or a PVR holder to comply with a request for propagating material under section 75(2) of the Act is the

time set by the Commissioner within the period beginning 1 month after the date of the Commissioner's request and ending on the day that is 2 years after the date of the request, unless the Commissioner extends that period under subclause (3).

- (3) The applicant or PVR holder may, before the expiry of the period referred to in subclause (1) or subclause (2), as the case requires, request the Commissioner to extend the period and, if the Commissioner considers it reasonable in the circumstances to do so, the Commissioner may,—
- (a) in the case of a request relating to the period in subclause (1), extend the period on 1 occasion for a period not exceeding 1 year:
 - (b) in the case of a request relating to the period in subclause (2), extend the period on 1 or more occasions for a further period not exceeding 2 years on each extension.

49 Request for direction under section 76 of Act

- (1) A request for a direction under section 76(2) of the Act must include—
- (a) the full name and address of the person or persons in whose name or names the application is requested to proceed; and
 - (b) the nationality or principal place of business of the person or persons in whose name or names the application is requested to proceed; and
 - (c) a statement establishing how the person or persons are entitled to the PVR, an interest in the PVR, or an undivided share in the PVR or in an interest in the PVR; and
 - (d) either—
 - (i) a copy of the assignment or agreement that entitles the person or persons referred to in paragraph (a) to the PVR, an interest in the PVR, or an undivided share in the PVR or in an interest in the PVR; or
 - (ii) both—
 - (A) a statement setting out the particulars of any document that establishes the person's or persons' entitlement by operation of law to the PVR, an interest in the PVR, or an undivided interest in the PVR or in an interest in the PVR, including the document's date, the parties to the document, and how the entitlement is substantiated; and
 - (B) a copy of each document referred to in that statement.
- (2) The Commissioner may also require the person or persons who make the request to produce the original copy of the assignment, agreement, or other document and any other evidence.

Subpart 2—Transmission of PVRs or interests in PVRs

Registration of assignments and other interests in PVRs

50 Application under section 78 of Act

- (1) An application under section 78 of the Act must specify whether it is made under section 78(1) or (2) of the Act and must include—
 - (a) a statement specifying whether the PVR, share, or interest was acquired, disposed of, or conferred by assignment, transmission, operation of law, mortgage, or other means; and
 - (b) if the application is to register an interest, the nature of the interest; and
 - (c) a statement setting out the particulars of the document that establishes the entitlement to the PVR, share, or interest, the document's date, the parties to the document, and how the entitlement is substantiated; and
 - (d) a copy of the document that establishes the entitlement.
- (2) The Commissioner may require that the original document referred to in an application be produced to the Commissioner.
- (3) If an original document required by the Commissioner under subclause (2) is not in electronic form, regulation 13 does not apply to the production of that document.

Vesting of PVRs or PVR applications without probate or letters of administration

51 Application to vest PVR or PVR application for probate or letters of administration

- (1) An application under section 80 of the Act to register or substitute a person (**B**) as a PVR holder or PVR applicant without requiring probate or letters of administration must include—
 - (a) the full name and address of B; and
 - (b) the nationality or principal place of business of B; and
 - (c) the full name of the deceased person (**A**) and identify whether A was the PVR applicant or PVR holder; and
 - (d) a statement as to the circumstances and grounds on which the application is made.
- (2) The statement required by subclause (1)(d) must identify—
 - (a) whether A was intestate when A died; and
 - (b) the date on which A died; and
 - (c) the place where A died; and
 - (d) the country where A was domiciled when A died; and

- (e) how B is entitled to obtain probate or letters of administration or is the personal representative of A; and
 - (f) how the interests of the creditors of A, and of all persons beneficially interested under A's will or on A's intestacy, will be adequately safeguarded if the action applied for is taken.
- (3) The Commissioner may require further evidence to be filed in support of the application.

Subpart 3—Cancellation and nullification of PVRs

Cancellation and nullification of PVRs

52 Application to Commissioner for cancellation or nullification of PVR

- (1) The manner in which a person may apply under section 86 of the Act to the Commissioner for the cancellation or nullification of a PVR granted under the Act is that the application—
- (a) must include the ground or grounds in section 82 of the Act on which the application is made; and
 - (b) must include a statement confirming that there are no relevant proceedings before the court; and
 - (c) must be accompanied by a statement of case setting out the facts upon which the applicant relies and the relief sought.
- (2) The Commissioner must give the PVR holder a copy of the application and of the statement of case.

53 Counter-statement to application and evidence for cancellation or nullification of PVR

- (1) The PVR holder must file a counter-statement to an application for cancellation or nullification of a PVR within 2 months after receiving a copy of the application and of the statement of case, setting out the grounds on which the application for cancellation or nullification is contested.
- (2) The Commissioner may extend the time limit for filing a counter-statement by up to 2 months if—
- (a) the PVR holder files an extension request no later than 2 months after the date on which the counter-statement is required to be filed; and
 - (b) the Commissioner is satisfied that there are exceptional circumstances that justify the extension.
- (3) A time limit may be extended under subclause (2) only once.
- (4) The person who applied for cancellation or nullification (the **applicant**) may, within 4 months after receiving the copy of the counter-statement, file evidence in support of the applicant's case.

- (5) The PVR holder may file evidence in support of the holder's case within 4 months after receiving the copy of the applicant's evidence or, if the applicant does not file any evidence, within 4 months after the expiry of the time within which the applicant's evidence might have been filed.
- (6) The applicant may, within 3 months after receiving the copy of the PVR holder's evidence, file evidence confined to matters strictly in reply.

54 Procedure if no counter-statement to application for cancellation or nullification is filed

- (1) This regulation applies if the PVR holder fails to file a counter-statement to an application for cancellation or nullification within the period during which the counter-statement is required to be filed.
- (2) The applicant may file evidence in support of the applicant's case within 4 months after the time within which the PVR holder is required to file the counter-statement.
- (3) The Commissioner may determine the application for cancellation or nullification of the PVR after considering the application and any evidence filed in support of the application.

Subpart 4—Surrender of PVRs

Surrender of PVRs

55 Notice of offer to surrender PVR

- (1) A notice of an offer by a PVR holder under section 91 of the Act to surrender a PVR must include—
 - (a) the reasons for making the offer; and
 - (b) full particulars of every relevant proceeding before the court.
- (2) In regulation 56, **opponent** means the person who gives to the Commissioner a notice of opposition to the surrender under section 91 of the Act.

56 Opposition to surrender of PVR

- (1) The period prescribed for the purpose of section 91(3) of the Act for giving to the Commissioner a notice of opposition to the surrender of a PVR is 2 months after the publication in the journal of the offer to surrender the PVR.
- (2) The notice of opposition—
 - (a) must include the opponent's reasons for opposing the surrender of the PVR; and
 - (b) must be accompanied by a statement of case setting out the opponent's interest in the surrender, the facts upon which the opponent relies, and the relief sought.

- (3) The Commissioner must give a copy of the notice of opposition and of the statement of case to the PVR holder.

57 PVR holder must file counter-statement

- (1) The PVR holder must file a counter-statement within 2 months after receiving a copy of the notice of opposition and of the statement of case under regulation 56.
- (2) The counter-statement must set out the grounds on which the opposition is contested.
- (3) If the PVR holder does not file a counter-statement within the 2-month period under subclause (1), the PVR holder must be treated as having abandoned the holder's offer to surrender the PVR.

Compare: LI 2014/275 r 108

58 Filing of evidence

- (1) The opponent may, within 2 months after receiving the copy of the counter-statement under regulation 57, file evidence in support of the opponent's case.
- (2) The PVR holder may file evidence in support of the holder's case within 2 months after receiving the copy of the opponent's evidence or, if the opponent does not file any evidence, within 2 months after the expiry of the time within which the opponent's evidence might have been filed under subclause (1).
- (3) The opponent may, within 1 month after receiving the copy of the PVR holder's evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply.

Compare: LI 2014/275 r 109

Subpart 5—Restoration of lapsed applications and cancelled PVRs

Restoration of lapsed PVR applications

59 Application for restoration of lapsed PVR applications

- (1) An application under section 93 of the Act for an order to restore a lapsed PVR application must include evidence in support of the application.
- (2) The applicant may file further evidence in support of the application within 3 months after the request is made.
- (3) If the Commissioner requires the applicant to file further evidence under section 98(3) of the Act, the applicant must file that evidence within 3 months after the date on which the application for restoration is made.

Compare: LI 2014/275 r 116

60 When application for restoration of lapsed PVR application may be made

- (1) The specified period for the purpose of section 94(1)(a)(ii) of the Act within which an application under section 93 of the Act may be made is,—

- (a) in the case of a PVR application that lapsed under section 48(5)(a) of the Act, 12 months after the date on which the application lapsed; and
 - (b) in the case of a PVR application that lapsed under section 50(5)(a) of the Act, 12 months after the date on which the growing trial fee or examination fee under section 50 was due.
- (2) If the application under section 93 of the Act is made after the period referred to in subclause (1)(a) or (b), as the case requires, the application must be accompanied by—
- (a) the information referred to in section 94(1)(b)(i) and (ii) of the Act; and
 - (b) the evidence in support of the extension of time.
- (3) The applicant may file further evidence in support of an extension of time under section 94(2) of the Act at any time within 3 months after making the application under section 93 of the Act.
- (4) The Commissioner may extend the period prescribed by subclause (3) by up to 1 month, on request by the applicant made before the end of that prescribed period.

Compare: LI 2014/275 r 117

61 Opposition to restoration of PVR application

- (1) The period prescribed for the purpose of section 97(2)(b) of the Act for giving notice to the Commissioner of opposition to the making of an order under section 99 of the Act is 2 months after the date on which the Commissioner publicly notifies the application under section 96(2) of the Act.
- (2) The notice of opposition—
- (a) must identify the ground or grounds in section 97(1) of the Act that apply; and
 - (b) must be accompanied by a statement of case setting out the facts upon which the opponent relies.
- (3) The Commissioner must give a copy of the notice of opposition and statement of case to the applicant.
- (4) In this regulation and regulation 63, **opponent** means the person who has given notice to the Commissioner of opposition to the making of an order under section 99(1)(a) of the Act.

Compare: LI 2014/275 r 118

62 Applicant must file counter-statement

- (1) The applicant must file a counter-statement with the Commissioner within 2 months after receiving a copy of the notice of opposition and of the statement of case under regulation 61.
- (2) The counter-statement must set out the grounds on which the opposition is contested.

- (3) If the applicant does not file a counter-statement within the 2-month period under subclause (1), the applicant must be treated as having abandoned the applicant's request for restoration.

Compare: LI 2014/275 r 119

63 Filing of evidence

- (1) The opponent may, within 2 months after receiving the copy of the counter-statement under regulation 62, file evidence in support of the opponent's case.
- (2) The applicant may file evidence in support of the applicant's case within 2 months after receiving the copy of the opponent's evidence or, if the opponent does not file any evidence, within 2 months after the expiry of the time within which the opponent's evidence might have been filed under subclause (1).
- (3) The opponent may, within 1 month after receiving the copy of the applicant's evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply.

Compare: LI 2014/275 r 120

64 Protection of persons who use plant variety if Commissioner restores lapsed PVR application

- (1) Every order under section 99(1)(a) of the Act is subject to the conditions prescribed in this regulation.
- (2) No action or other proceeding may be commenced or prosecuted, nor any damages or account of profits recovered, in respect of exploitation of a plant variety that is the subject of a lapsed PVR application and that a person referred to in section 99(2) of the Act used or took definite steps to use, on the ground that the person has infringed, or infringes, the PVR.
- (3) However, subclause (2) applies only to the extent that the person—
 - (a) continues to act in a manner that is consistent with, but does not go beyond, the way in which the person exploited the plant variety; or
 - (b) continues to act in a manner that is consistent with the definitive steps that were taken to exploit the plant variety so as to complete those steps; or
 - (c) uses the result of the completion of the definitive steps in a manner that is consistent with, but does not go beyond, what was contemplated by those steps in order to exploit the plant variety.
- (4) To avoid doubt, the protection in subclause (2) applies to activities undertaken at any time after the PVR application lapses.

Compare: LI 2014/275 r 121

*Restoration of cancelled PVRs***65 Manner in which request to restore cancelled PVR may be made**

- (1) A request under section 100(2) of the Act for the restoration of a cancelled PVR must include the date on which the renewal fee was due and evidence in support of the request.
- (2) The former PVR holder may file further evidence in support of the request within 3 months after the date on which the request is made.
- (3) If the Commissioner requires further evidence under section 102(3) of the Act, the former PVR holder must file further evidence in support of the request within 3 months after the date on which the request for restoration is made.
- (4) In this regulation and regulations 66 to 69, **former PVR holder** means a person referred to in section 101 of the Act who makes a request for an order under section 100(2) of the Act.

Compare: LI 2014/275 r 110

66 When request for restoration of cancelled PVR may be made

- (1) For the purpose of section 101(2)(a) of the Act, the specified period within which a request under section 100(2) of the Act may be made is 1 year after the date on which the renewal fee becomes due.
- (2) If the request under section 100(2) of the Act is made after the period referred to in subclause (1) expires, the request must be accompanied by—
 - (a) the information required by section 101(2)(b)(ii) of the Act; and
 - (b) the evidence in support of an extension of time under section 101(3) of the Act.
- (3) The former PVR holder may file further evidence in support of an extension under section 101(3) of the Act at any time within 3 months after making the request under section 100(2) of the Act.
- (4) The Commissioner may extend the period prescribed by subclause (3) by up to 1 month, on request by the former PVR holder made before the end of that prescribed period.

Compare: LI 2014/275 r 111

67 Opposition to restoration of cancelled PVR

- (1) For the purpose of section 104(2)(b) of the Act, the specified period within which notice of opposition to an order being made under section 100(2) of the Act may be given to the Commissioner is 2 months after the date on which the application made in accordance with section 100 of the Act is publicly notified under section 103(2) of the Act.
- (2) The notice of opposition—

- (a) must state why the former PVR holder's failure to comply with section 92(1) of the Act is believed to have been intentional; and
 - (b) must be accompanied by a statement of case setting out the facts upon which the opponent relies.
- (3) The Commissioner must give a copy of the notice of opposition and of the statement of case to the former PVR holder.
- (4) In this regulation and regulation 69, **opponent** means the person who gives notice to the Commissioner of opposition to an order being made under section 100(2) of the Act.

Compare: LI 2014/275 r 112

68 Former PVR holder must file counter-statement

- (1) The former PVR holder must file a counter-statement within 2 months after receiving a copy of the notice of opposition and of the statement of case under regulation 67.
- (2) The counter-statement must set out the grounds on which the opposition is contested.
- (3) If the former PVR holder does not file a counter-statement within the 2-month period under subclause (1), the former PVR holder must be treated as having abandoned their request for restoration of the PVR.

Compare: LI 2014/275 r 113

69 Filing of evidence

- (1) The opponent may file evidence in support of the opponent's case within 2 months after receiving the copy of the counter-statement under regulation 68.
- (2) The former PVR holder may file evidence in support of their case within 2 months after receiving the copy of the opponent's evidence or, if the opponent does not file any evidence, within 2 months after the expiry of the time within which the opponent's evidence might have been filed under subclause (1).
- (3) The opponent may file further evidence within 1 month after receiving the copy of the former PVR holder's evidence, but only if the further evidence is confined to matters strictly in reply.

70 Protection of persons who use plant variety if Commissioner restores cancelled PVR

- (1) Every order under section 100(2) of the Act is subject to conditions prescribed in this regulation.
- (2) No action or other proceeding may be commenced or prosecuted, nor any damages or account of profits recovered, in respect of the use of a plant variety that is the subject of a cancelled PVR and that a person referred to in section 106(2) of the Act used, or took definite steps to use, on the ground that the person has infringed, or infringes, the PVR.

- (3) However, subclause (2) applies only to the extent that the person—
 - (a) continues to act in a manner that is consistent with, but does not go beyond, the way in which the person exploited the plant variety; or
 - (b) continues to act in a manner that is consistent with the definitive steps that were taken to exploit the plant variety so as to complete those steps; or
 - (c) uses the result of the completion of the definitive steps in a manner that is consistent with, but does not go beyond, what was contemplated by those steps in order to exploit the plant variety.
- (4) To avoid doubt, the protection in subclause (2) applies to activities undertaken at any time after the PVR ceases to have effect.

Subpart 6—Compulsory licences

Compulsory licences

71 Application for compulsory licence to exercise PVR

- (1) An application under section 108(1) of the Act for a compulsory licence must—
 - (a) request the grant of a compulsory licence; and
 - (b) set out the name and address of the applicant; and
 - (c) set out the information specified in section 111(b)(i) to (iv) of the Act; and
 - (d) set out the reasons why a compulsory licence is sought.
- (2) The Commissioner must, as soon as practicable after receiving the application, send a copy of the application to the holder of the PVR to which the application relates.

72 Procedure following application for compulsory licence

- (1) A PVR holder may, within 4 months after receiving from the Commissioner a copy of the application for a compulsory licence, file a counter-statement with the Commissioner.
- (2) The counter-statement must set out the grounds on which the application for a compulsory licence is opposed.
- (3) If a counter-statement is received, the Commissioner must send a copy of it to the applicant.
- (4) If no counter-statement is received from the PVR holder, the Commissioner must invite the applicant to file evidence within 4 months of the latest date on which the counter-statement could have been filed.

73 Time for applicant to comply with request under section 113(1) of Act

- (1) The applicant must comply with a request for further information by the Commissioner under section 113(1) of the Act within 2 months of the date of the Commissioner's request unless that period is extended under subclause (2).
- (2) The Commissioner may, on 1 occasion, extend the period referred to in subclause (1) on the application of the applicant made before the expiry of the period, for a further period of up to 3 months, if the Commissioner is satisfied that the extension is justified in the circumstances.

74 Filing of evidence

- (1) The applicant may, within 4 months after receiving the copy of the counter-statement under regulation 72, file evidence in support of the applicant's case.
- (2) If the applicant fails to file evidence within 4 months of receiving a counter-statement under regulation 72 or within 4 months after receiving an invitation from the Commissioner to file evidence, their application is deemed to have been abandoned.
- (3) The PVR holder may file evidence in support of the holder's case within 4 months after receiving the copy of the applicant's evidence or, if the applicant does not file any evidence, within 4 months after the expiry of the time within which the applicant's evidence might have been filed under subclause (1) unless the time for doing so is extended under subclause (5).
- (4) The applicant may, within 3 months after receiving the copy of the PVR holder's evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply, unless the time for doing so is extended under subclause (5).
- (5) The Commissioner may extend any of the periods referred to in subclauses (1) to (4) on 1 occasion if satisfied that the extension is justified in the circumstances, on the application of the applicant or the PVR holder, as the case requires, made at any time before expiry of the period.

Subpart 7—Application for amendment or revocation of compulsory licence**75 Application for amendment or revocation of compulsory licence**

- (1) An application for the amendment or revocation of a compulsory licence under section 117 of the Act must set out—
 - (a) the names and address of the applicant;
 - (b) their address for service (if different from the address for service already held by the Commissioner);
 - (c) sufficient information to enable the Commissioner to identify the compulsory licence to which the application relates to.

- (2) The Commissioner must, as soon as practicable after receiving the application, send a copy of the application for amendment or revocation of the compulsory licence to—
 - (a) the holder of the compulsory licence, if the PVR holder is the applicant;
 - (b) the PVR holder, if the holder of the compulsory licence is the applicant;
 - (c) the PVR holder and the holder of the compulsory licence, if the applicant is a third party.

What happens if applicant for amendment or revocation is PVR holder

76 What happens if applicant for amendment or revocation is PVR holder

- (1) If the applicant is the PVR holder, the holder of the compulsory licence may, within 4 months of receiving a copy of the application under regulation 75(2)(a), file a counter-statement with the Commissioner.
- (2) The counter-statement must set out the grounds on which the application for amendment or a revocation of the compulsory licence is opposed.
- (3) If a counter-statement is received, the Commissioner must send a copy of it to the applicant.
- (4) If no counter-statement is received from the holder of the compulsory licence, the Commissioner must invite the applicant to file evidence within 4 months of the latest date on which the counter-statement could have been filed.

77 Filing of evidence

- (1) The applicant may, within 4 months after receiving the copy of the counter-statement under regulation 76, file evidence in support of the applicant's case.
- (2) If the applicant fails to file evidence within 4 months of receiving a counter-statement under regulation 76 or within 4 months after receiving an invitation from the Commissioner to file evidence, their application is deemed to have been abandoned.
- (3) The holder of the compulsory licence may file evidence in support of the holder's case within 4 months after receiving the copy of the applicant's evidence or, if the applicant does not file any evidence, within 4 months after the expiry of the time within which the applicant's evidence might have been filed under subclause (1), unless the time for doing so is extended under subclause (5).
- (4) The applicant may, within 3 months after receiving the copy of the PVR holder's evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply, unless the time for doing so is extended under subclause (5).
- (5) The Commissioner may extend any of the periods referred to in subclauses (1) to (4) on 1 occasion if satisfied that the extension is justified in the circumstances, on the application of the applicant or the compulsory licence holder, as the case requires, made at any time before expiry of the period.

What happens if applicant for amendment or revocation is compulsory licensee

78 What happens if applicant is compulsory licensee

- (1) If the applicant is the compulsory licensee, a PVR holder may within 4 months after receiving a copy of the application under regulation 75(2)(b), file a counter-statement with the Commissioner.
- (2) The counter-statement must set out the grounds on which the application for the amendment or revocation of the compulsory licence is opposed.
- (3) If a counter-statement is received, the Commissioner must send a copy of it to the applicant.
- (4) If no counter-statement is received from the PVR holder, the Commissioner must invite the applicant to file evidence within 4 months of the latest date on which the counter-statement could have been filed.

79 Filing of evidence

- (1) The applicant may, within 4 months after receiving the copy of the counter-statement under regulation 78, file evidence in support of the applicant's case.
- (2) If the applicant fails to file evidence within 4 months of receiving a counter-statement under regulation 78 or within 4 months after receiving an invitation from the Commissioner to file evidence, their application is deemed to have been abandoned.
- (3) The PVR holder may file evidence in support of the holder's case within 4 months after receiving the copy of the applicant's evidence or, if the applicant does not file any evidence, within 4 months after the expiry of the time within which the applicant's evidence might have been filed under subclause (1), unless the time for doing so is extended under subclause (5).
- (4) The applicant may, within 3 months after receiving the copy of the PVR holder's evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply, unless the time for doing so is extended under subclause (5).
- (5) The Commissioner may extend any of the periods referred to in subclauses (1) to (4) on 1 occasion if satisfied that the extension is justified in the circumstances, on the application of the applicant or the PVR holder, as the case requires, made at any time before expiry of the period.

What happens if applicant is third party

80 What happens if applicant for amendment or revocation is third party

- (1) A PVR holder or the compulsory licensee may, within 4 months after receiving a copy of the application under regulation 75(2)(c), file a counter-statement with the Commissioner.

- (2) The counter-statement must set out the grounds on which the application for the revocation or amendment of the compulsory licence is opposed.
- (3) If a counter-statement is received, the Commissioner must send a copy of it to the applicant.
- (4) If no counter-statement is received from either the PVR holder or the compulsory licensee, the Commissioner must invite the applicant to file evidence within 4 months of the latest date on which the counter-statement could have been filed.

81 Filing of evidence

- (1) The applicant may, within 4 months after receiving the copy of the counter-statement under regulation 80, file evidence in support of the applicant's case.
- (2) If the applicant fails to file evidence within 4 months of receiving a counter-statement under regulation 80 or within 4 months after receiving an invitation from the Commissioner to file evidence, their application is deemed to have been abandoned.
- (3) The PVR holder or holder of the compulsory licence may file evidence in support of the holder's or licensee's case, as the case requires, within 4 months after receiving the copy of the applicant's evidence or, if the applicant does not file any evidence, within 4 months after the expiry of the time within which the applicant's evidence might have been filed under subclause (1), unless the time for doing so is extended under subclause (5).
- (4) The applicant may, within 3 months after receiving the copy of the PVR holder's or compulsory licensee's evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply, unless the time for doing so is extended under subclause (5).
- (5) The Commissioner may extend any of the periods referred to in subclauses (1) to (4) on 1 occasion if satisfied that the extension is justified in the circumstances, on the application of the applicant or the PVR holder or the holder of the compulsory licence, as the case requires, made at any time before expiry of the period.

Subpart 8—Miscellaneous

PVR register

82 PVR register must contain record of grant of PVR

The Commissioner must ensure that the information required by section 136(1) of the Act is entered in the PVR register in respect of a PVR in force in New Zealand as soon as practicable after the date that a PVR is granted or, in the case of information filed after the grant of a PVR, as soon as practicable after the information is filed.

Compare: LI 2014/275 r 128

83 Other PVR information that must be entered in PVR register

The information that must be entered in the PVR register under section 136(1)(h) of the Act is all documents that are open to public inspection (for example, *see* section 47 of the Act).

Compare: LI 2014/275 r 129

84 Payment of renewal fees must be entered in PVR register

The Commissioner must enter, under section 136(1)(h) of the Act, the following information in the PVR register when the Commissioner issues a certificate of payment under regulation 12:

- (a) that a renewal fee has been paid:
- (b) the date of payment.

Compare: LI 2014/275 r 130

*Searches of PVR register and obtaining PVR information***85 Search of PVR register**

- (1) The PVR register must be available for access and searching by members of the public at all times unless subclause (2) applies.
- (2) The Commissioner may refuse access to the PVR register or suspend its operation, in whole or in part,—
 - (a) if the Commissioner considers that it is not practicable to provide access to the PVR register; or
 - (b) to enable maintenance of the PVR register; or
 - (c) in response to technical difficulties in the maintenance or operation of the PVR register; or
 - (d) to ensure the security or integrity of the PVR register.

Compare: LI 2014/275 r 131

86 Information concerning PVR or PVR application that may be requested

- (1) A request under section 138(c) of the Act for information relating to a PVR or PVR application may be made as to—
 - (a) when a PVR application lapsed or was withdrawn:
 - (b) when a PVR has been granted:
 - (c) when a renewal fee has been paid:
 - (d) when a PVR has expired:
 - (e) when an entry has been made in the PVR register or an application has been made for the making of the entry:
 - (f) when any application is made or action taken involving an entry in the PVR register or publication in the journal.

- (2) A request under subclause (1) may be declined if the information is already publicly available.

Compare: LI 2014/275 r 132

87 How request for PVR information and certified copies must be made

A request under section 138 of the Act must contain the purpose for which copies of documents (if sought) or information is required.

Compare: LI 2014/275 r 133

Changes to PVR register and other official documents

88 Application to correct mistakes in PVR register, etc

- (1) An application under section 141 of the Act for a correction of an error or omission must include—
- (a) a statement that—
- (i) identifies where the error or omission is thought to have been made; and
 - (ii) includes either a description of the error or omission or a copy of the entry in the PVR register, PVR, PVR application, or other document (as the case requires) with the error or omission clearly identified; and
- (b) evidence (if any) in support of the application.
- (2) The Commissioner may require the applicant to file further evidence in support of the application.
- (3) If the Commissioner requires further evidence under subclause (2), the applicant must file that evidence within 3 months after the date on which the application is made.
- (4) In this regulation and in regulations 89 to 94,—

applicant means the person who applied for the correction under section 141(2) of the Act

opponent means the person who gives a notice of opposition under section 141(5) of the Act.

Compare: LI 2014/275 r 136

89 Opposition to proposed correction

- (1) The period prescribed for the purpose of section 141(5) of the Act is 2 months after the date on which the proposed correction is published in the journal.
- (2) A notice of opposition under section 141(5) of the Act must include—
- (a) sufficient detail to identify the proposed correction that is opposed; and
 - (b) the grounds on which the proposed correction is opposed.

- (3) The notice of opposition must also be accompanied by a statement of case setting out the facts relied on in support of the opposition and the relief sought.
- (4) The Commissioner must give a copy of the notice of opposition and of the statement of case to the applicant.

Compare: LI 2014/275 r 137

90 Applicant must file counter-statement

- (1) The applicant must file a counter-statement within 2 months after receiving a copy of the notice of opposition under section 141(5)(a) of the Act and of the statement of case under regulation 89.
- (2) The counter-statement must set out the grounds on which the opposition is contested.
- (3) If the applicant does not file a counter-statement within the 2-month period under subclause (1), the applicant must be treated as having abandoned the applicant's application for correction.

Compare: LI 2014/275 r 138

91 Filing of evidence

- (1) The opponent may, within 4 months after receiving the copy of the counter-statement filed under regulation 90, file evidence in support of the opponent's case.
- (2) The applicant may file evidence in support of the applicant's case within 4 months after receiving the copy of the opponent's evidence or, if the opponent does not file any evidence, within 4 months after the expiry of the time within which the opponent's evidence might have been filed under subclause (1).
- (3) The opponent may, within 3 months after receiving the copy of the applicant's evidence, file further evidence, but only if the further evidence is confined to matters strictly in reply.

Compare: LI 2014/275 r 139

92 Opposition to Commissioner-initiated correction

- (1) Any person may oppose a correction proposed by the Commissioner on the Commissioner's own initiative under section 141 of the Act by filing a notice within 2 months after the date on which the proposed correction is published in the journal.
- (2) The notice must include—
 - (a) sufficient detail to identify the proposed correction that is opposed; and
 - (b) the grounds on which the proposed correction is opposed.
- (3) The notice must also be accompanied by a statement of case setting out the facts relied on in support of the opposition and the relief sought.

- (4) The opponent may, within 4 months after filing the notice, file evidence in support of their case.
- (5) After considering the notice and any evidence filed, the Commissioner must notify the opponent of the decision they intend to make.

Compare: LI 2014/275 r 140

93 Notice of application to court to correct PVR register

- (1) Any notice given to the Commissioner under section 143(3) of the Act must include a copy of the application for correction.
- (2) The Commissioner must enter a notice of application under section 143(3) of the Act in the PVR register as soon as practicable after receiving the notice.

Compare: LI 2014/275 r 141

94 Notice of order of court to correct PVR register

Any notice served on the Commissioner under section 143(5) of the Act must include—

- (a) a copy of the order of the court; and
- (b) the date or dates by which the Commissioner or the applicant is required to take action for correction in respect of the order.

Compare: LI 2014/275 r 142

Journal

95 Matters required to be published in journal

- (1) The Commissioner must publish in the journal kept under section 151 of the Act, in respect of every application,—
 - (a) the applicant's name and address:
 - (b) the date of the application:
 - (c) the genus or species of the variety:
 - (d) every denomination that—
 - (i) has been proposed for the variety; and
 - (ii) the Commissioner has not immediately indicated that the Commissioner will not approve:
 - (e) if the application lapses or is withdrawn, the fact that it has lapsed or been withdrawn.
- (2) The Commissioner must publish in the journal, in respect of every grant,—
 - (a) the name and address for service of the PVR holder:
 - (b) the genus or species to which the variety belongs:
 - (c) the denomination the Commissioner has approved for the variety:
 - (d) the date of the grant.

- (3) The Commissioner must publish in the journal—
 - (a) the fact that a PVR has expired or has been cancelled or surrendered; and
 - (b) the date on which the expiry, or cancellation, or surrender took effect.

Evidence

96 Form of evidence

If these regulations require or permit evidence to be filed, it must be by statutory declaration or affidavit unless otherwise expressly provided in these regulations.

Compare: LI 2014/275 r 144

Amendment of documents

97 Amendment of documents

- (1) In any proceedings before the Commissioner, the Commissioner may, if they think fit,—
 - (a) allow any document filed in the proceedings to be amended if no express provision is made in the Act or these regulations for the amendment of the document; and
 - (b) correct any irregularity in procedure.
- (2) Any action taken by the Commissioner under this regulation may be on any terms that they may direct.

Compare: LI 2014/275 r 145

Miscellaneous

98 Power of Commissioner to waive requirements in exceptional circumstances

- (1) The Commissioner may, in exceptional circumstances, waive a requirement in Part 1 or any of regulations 36 to 42 and 44 for a person to do anything, on production of any evidence that the Commissioner thinks fit.
- (2) The Commissioner may grant the waiver even if the time has expired for doing the thing.
- (3) A waiver is granted by giving notice to the persons known to the Commissioner to be affected by the waiver, and may be on any terms that the Commissioner thinks fit.

Compare: LI 2014/275 r 149

99 Power to waive requirements for PVR applications temporarily

- (1) The Commissioner may allow a PVR application to be filed that is not made in accordance with Part 1 or any of regulations 36 to 42 and 44, but only if the

applicant takes any action necessary to comply with the relevant provision as soon as practicable after the application is filed.

- (2) If the PVR application is not amended or other action is not taken to comply with the relevant provision as soon as practicable after the application is filed, the application must be treated as if it had been abandoned unless the Commissioner waives compliance under regulation 98.

Compare: LI 2014/275 r 150

100 Maintenance of certain records

The Commissioner must maintain electronic copies of all other information or documents associated with a PVR application or PVR, including filing dates, priority dates, and the names of applicants and PVR holders, that are filed under the Act or these regulations.

Compare: LI 2014/275 r 151

Part 3 Miscellaneous

Subpart 1—Procedural and evidential requirements for proceedings before Commissioner

Proceedings to which this subpart applies

101 Application of this subpart

This subpart applies to the following proceedings:

- (a) a proceeding that is commenced by the filing of any of the following documents:
- (i) a notice of opposition under section 51 of the Act to the grant of a PVR:
 - (ii) an application to the Commissioner for the nullification or cancellation of a PVR under section 69(1) or 86(1) of the Act:
 - (iii) an offer to surrender a PVR under section 91(1) of the Act:
 - (iv) a notice of opposition to an offer to surrender a PVR under section 91(3) of the Act:
 - (v) an application under section 93 of the Act for the restoration of a lapsed PVR:
 - (vi) a notice of opposition to the restoration of a lapsed PVR under section 97 of the Act:
 - (vii) an application for the restoration of a cancelled PVR under section 100(2) of the Act:

- (viii) a notice of opposition to the restoration of a cancelled PVR under section 104 of the Act:
- (ix) an application for a compulsory licence under section 111 of the Act:
- (x) an application for amendment or revocation of a compulsory licence under section 117 of the Act:
- (b) a hearing under section 124 of the Act before the exercise of the Commissioner's discretion.

Compare: LI 2014/275 r 152

Documents filed in proceedings

102 Extra information that must be contained in documents filed in proceedings

- (1) A document, including written evidence, or bundle of documents filed in a proceeding must contain the following information:
 - (a) the name and address for service of the person filing the document; and
 - (b) if that person has an agent, the agent's name; and
 - (c) the number of the PVR application or PVR that is the subject of the proceeding.
- (2) Every document referred to in regulation 101(a), and every statement of case and counter-statement, that is filed in a proceeding must be signed by the person giving the information or document or on whose behalf the information or document is given (for example, the applicant or the opponent).

Compare: LI 2014/275 r 153

Hearing before exercise of Commissioner's discretion

103 Hearing before exercise of Commissioner's discretion

- (1) This regulation applies if section 124 of the Act requires the Commissioner to give a person (A) a reasonable opportunity to be heard before exercising a discretionary power under the Act or these regulations.
- (2) The Commissioner must notify A of the decision that the Commissioner proposes to make, and the reasons for the decision (if not already given), before exercising the discretionary power.
- (3) If A wishes to be heard before the discretionary power is exercised, A must file a notice within 10 working days after receiving that notification from the Commissioner.
- (4) The notice must state the matter in respect of which A seeks a hearing and be signed by A.

Compare: LI 2014/275 r 154

*Case management***104 Commissioner may require parties to attend case management conference**

- (1) At any stage in a proceeding, the Commissioner may, for the purpose of securing the just, speedy, and inexpensive determination of the proceeding, give a direction requiring the parties to attend a case management conference to review the proceeding and the steps that have been or must still be taken.
- (2) The Commissioner must give each party notice of the conference at least 10 working days before the conference.
- (3) The parties may attend in person or by a telecommunication link that is acceptable to the Commissioner.

Compare: LI 2014/275 r 155

105 Commissioner may give directions

- (1) At any stage in a proceeding, the Commissioner may give directions that are consistent with the Act and these regulations requiring a party to do things to secure the just, speedy, and inexpensive determination of the proceeding within a time limit specified by the Commissioner.
- (2) Without limiting the generality of the directions that may be given, the Commissioner may—
 - (a) fix the time by which a step in the proceeding must be taken; and
 - (b) specify the steps that must be taken to prepare the proceeding for a hearing; and
 - (c) direct how the hearing of the proceeding is to be conducted; and
 - (d) require parties to use their best endeavours to agree on how information or evidence that may be confidential or privileged is to be treated; and
 - (e) give directions about how information that may be confidential or privileged is to be treated if the parties have not been able to reach an agreement within the time limit specified by the Commissioner; and
 - (f) require parties to file copies of documents; and
 - (g) require parties to provide other parties to the proceeding with copies of documents; and
 - (h) require parties to file better or further particulars; and
 - (i) require parties to provide other parties to the proceedings with better or further particulars.
- (3) The Commissioner may give the direction on the Commissioner's own initiative or on the application of any party to the proceeding.

Compare: LI 2014/275 r 156

106 Parties must comply with Commissioner's directions

All parties to a proceeding must comply with a direction given by the Commissioner under this subpart.

Compare: LI 2014/275 r 157

107 Non-compliance with Commissioner's directions

- (1) If a party (**party A**) fails to comply with a direction given by the Commissioner under this subpart (**non-compliance**),—
 - (a) the Commissioner must, as soon as practicable,—
 - (i) request party A to provide an explanation for party A's non-compliance to the Commissioner and to the opposite party within a time limit specified by the Commissioner; and
 - (ii) in that request, advise party A of the potential consequences of non-compliance; and
 - (b) the opposite party may provide comments on the explanation to the Commissioner within a time limit specified by the Commissioner; and
 - (c) after considering the explanation (if any) and comments from the opposite party (if any), the Commissioner must—
 - (i) consider whether party A has a reasonable excuse for party A's non-compliance; and
 - (ii) notify both parties of the decision that the Commissioner intends to make.
- (2) The notification referred to in subclause (1)(c)(ii) must also—
 - (a) advise the parties that either party may request a hearing concerning the non-compliance; and
 - (b) specify a period during which a party may request a hearing concerning the non-compliance, being a period of not less than 10 working days after the party receives the notification.
- (3) The Commissioner must, as soon as practicable, hold a hearing concerning the non-compliance if a party requests it, and in that case the Commissioner must make a decision only after holding a hearing.
- (4) If the Commissioner's decision is that party A has not satisfied the Commissioner that party A has a reasonable excuse for party A's non-compliance, the Commissioner may—
 - (a) extend the period for party A to comply with the direction; or
 - (b) modify, or waive compliance with, the direction; or
 - (c) direct that party A take no further step in the proceeding.

- (5) The Commissioner must notify both parties of the Commissioner's decision and any orders made under subclause (4) as soon as practicable.

Compare: LI 2014/275 r 158

Halt in proceedings

108 Commissioner may halt proceeding

- (1) The Commissioner may halt a proceeding, if the Commissioner thinks it appropriate, on the application of a party or on the Commissioner's own initiative.
- (2) The Commissioner may halt the proceeding for the period and on the terms that the Commissioner thinks appropriate, but must not halt the proceeding for more than 6 months.
- (3) The Commissioner may halt the proceeding for further periods, but on each occasion for no more than 6 months.
- (4) The Commissioner may recommence the proceeding at any time while the proceeding is halted.

Compare: LI 2014/275 r 159

Consolidation of proceedings

109 Commissioner may consolidate proceedings

The Commissioner may require that 2 or more proceedings be consolidated on terms that the Commissioner thinks appropriate, or may require them to be heard at the same time or one after the other, or may require any of them to be halted until after the determination of any other of them, if the Commissioner is satisfied that—

- (a) a common question of law or fact arises in both or all of them; or
- (b) the proceedings relate to—
- (i) allegedly identical plant varieties; or
 - (ii) PVRs with the same, or related, owners; or
- (c) for any other reason it is desirable to require consolidation of proceedings under this regulation.

Compare: LI 2014/275 r 160

Extension of time limits in proceedings

110 Commissioner may extend time limits in proceedings

- (1) The Commissioner may extend a time limit prescribed by these regulations for filing information or a document, or taking a step, in a proceeding—
- (a) for a period not exceeding 3 months if the Commissioner is satisfied that the extension is reasonable in the circumstances; or

- (b) for a period longer than 3 months, as specified by the Commissioner, if the Commissioner is satisfied that there are genuine and exceptional circumstances that justify the extension.
- (2) However, subclause (1) does not apply in any of the following circumstances:
 - (a) if the time limit for filing a counter-statement has already been extended under regulation 53(2):
 - (b) in respect of the time limit prescribed for filing a notice of opposition of a kind referred to in regulation 101(a):
 - (c) in respect of the time limit prescribed by regulation 103(3) for filing a request for a hearing under section 124 of the Act before the exercise of the Commissioner's discretion:
 - (d) if the time limit for filing the information or document or taking the step has already expired before the extension request is filed.
- (3) An extension is granted by giving notice to the person filing the information or document or taking the step and to any other parties to the proceeding, and may be on any terms that the Commissioner thinks fit.
- (4) More than 1 extension may be granted under subclause (1)(a), but only if the total period of those extensions does not exceed 3 months.
- (5) An extension may be granted under subclause (1)(b) even if the period has already been extended under subclause (1)(a).

Compare: LI 2014/275 r 161

Evidence

111 Evidence restricted to particulars filed

A party to a proceeding may only file evidence in the proceeding that relates to the particulars filed by that party or any other party to the proceeding.

Compare: LI 2014/275 r 162

Procedural and evidential requirements

112 Supply of documents for use of Commissioner

- (1) Copies of information or documents referred to in a proceeding to which this Part applies, or in any statement or evidence filed in connection with that proceeding, must be filed, unless the Commissioner directs otherwise.
- (2) If information or a document in a foreign language is referred to, a verified translation of the information or document must be filed.

Compare: LI 2014/275 r 163

113 Party filing documents must copy documents to opposite party

- (1) A party who files information or a document (including evidence) in a proceeding to which this Part applies must, as soon as practicable, send copies of the information or document to the opposite party and to any party intervening.
- (2) However, copies of information or a document (including evidence) filed in a proceeding that include confidential information must be sent to the opposite party and any party intervening as agreed between the parties or, if agreement cannot be reached, in the manner directed by the Commissioner.
- (3) Despite subclause (2), the parties may agree, or the Commissioner may direct, that any information or document that is subject to a privilege recognised by Part 2 of the Evidence Act 2006 may not be sent to the other party.

Compare: LI 2014/275 r 164

114 Evidence out of time

- (1) A party to a proceeding must not file evidence after the prescribed time unless the party has applied to the Commissioner for permission to file it and the Commissioner allows it.
- (2) The Commissioner may allow the evidence to be filed only if—
 - (a) the Commissioner considers that there are genuine and exceptional circumstances that justify filing the evidence; or
 - (b) the evidence could not have been filed earlier.
- (3) In this regulation, **prescribed time** means, in relation to a proceeding to which this regulation applies, the time prescribed in these regulations by which the evidence or type of evidence must be filed.

Compare: LI 2014/275 r 165

115 Application for permission to file evidence out of time

- (1) An application for permission to file evidence out of time must—
 - (a) be in writing; and
 - (b) be signed by the party applying for permission; and
 - (c) contain the information in subclause (2).
- (2) The application must contain the following information:
 - (a) the nature of the evidence and whether it is evidence in chief or evidence confined to matters strictly in reply; and
 - (b) an explanation of why the evidence could not have been filed earlier; and
 - (c) any other ground or grounds for making the application.
- (3) The Commissioner must notify the opposite party of the application, and the opposite party may make submissions to the Commissioner within the time specified by the Commissioner.

- (4) The Commissioner must notify the parties of the decision that the Commissioner intends to make on the application.
- (5) That notification must—
 - (a) specify the ground or grounds on which the Commissioner intends to reject or accept the application; and
 - (b) advise the parties that either party may request a hearing; and
 - (c) specify a period of not less than 1 month after the date of notification for a party to request a hearing; and
 - (d) advise the parties that the Commissioner will decide the application at the end of that period if a party has not requested a hearing.
- (6) The Commissioner must, as soon as practicable, hold a hearing if the applicant requests it, unless regulation 118(3) applies.

Compare: LI 2014/275 r 166

116 Right to file evidence in reply if evidence in chief permitted out of time

If a party is permitted under regulations 114 and 115 to file evidence in chief out of time, the opposite party may file evidence confined to matters strictly in reply within 1 month after the date of being notified by the Commissioner that the evidence out of time will be admitted in the proceeding.

Compare: LI 2014/275 r 167

117 Evidence from another proceeding

- (1) The Commissioner may in a proceeding, at the request of a party to the proceeding, accept evidence that the party has filed in an earlier or existing proceeding.
- (2) Any evidence that is accepted for filing under subclause (1) does not have to comply with regulation 102(2).

Compare: LI 2014/275 r 168

Subpart 2—Conduct of hearings and related matters

Hearings

118 Form of hearing

- (1) A hearing may be—
 - (a) a hearing by appearance, that is, the appearance of a party before the Commissioner, whether in person or by telecommunication link acceptable to the Commissioner; or
 - (b) a hearing by submissions, that is, the consideration by the Commissioner of written submissions filed by a party and a review of the other documents filed in the proceedings, without an appearance; or

- (c) a hearing on the papers, that is, a review of the documents filed in the proceeding.
- (2) A party may, subject to subclause (3), elect whether to be heard by appearance, by submissions, or on the papers.
- (3) If the Commissioner considers that a party has failed, without reasonable excuse, to attend a hearing or to agree to a hearing date, the Commissioner may, in their discretion,—
 - (a) direct a hearing on the papers for that party; or
 - (b) direct that the party take no further part in the proceeding; or
 - (c) treat the request for a hearing as withdrawn.
- (4) To avoid doubt, subclause (3)(a) does not prevent any other party to the proceeding from being heard by appearance or by submissions.

Compare: LI 2014/275 r 169

119 Commissioner may determine form of hearing, etc

After all the evidence has been filed, the Commissioner may, by correspondence or by holding a pre-hearing conference of the parties, determine—

- (a) whether a hearing is required:
- (b) the form of the hearing:
- (c) the time for filing submissions:
- (d) the venue of the hearing:
- (e) the pleadings that will be considered at the hearing:
- (f) any other matter necessary for arranging a hearing.

Compare: LI 2014/275 r 170

120 Notice of hearing by appearance

- (1) The Commissioner must give each party to a hearing by appearance notice of the date and venue of the hearing not less than 1 month before the date of the hearing.
- (2) Subclause (1) does not apply if—
 - (a) the date and venue have been determined at a pre-hearing conference; or
 - (b) the parties waive compliance with subclause (1); or
 - (c) in the Commissioner's opinion, notice of 1 month is not practicable for reasons of urgency.

Compare: LI 2014/275 r 171

121 Hearing fee

- (1) Each party who requests a hearing (other than a hearing on the papers) must pay the fee (if any) for a request for a hearing (a **hearing fee**) in Schedule 3.

- (2) The hearing fee must be paid,—
 - (a) in the case of a hearing by appearance, not less than 10 working days before the date set for the hearing;
 - (b) in the case of a hearing by submissions, when the party files the submissions.
- (3) In the case of a hearing required under regulation 103, the hearing fee must accompany the filing of the notice seeking a hearing.
- (4) The Commissioner must refund a hearing fee paid by a party who withdraws from the hearing if the Commissioner receives notice of withdrawal not less than 5 working days before the date set for the hearing.

Compare: LI 2014/275 r 172

122 Venue for hearing by appearance

- (1) If 1 party resides or has a principal place of business in Wellington, the hearing must be held in Wellington or the place in New Zealand (if any) that is agreed by all the parties and the Commissioner as the venue for the hearing.
- (2) Otherwise, the Commissioner must determine where the hearing will be held.
- (3) The Commissioner may require the party or parties concerned to pay the Commissioner's costs in holding the hearing at a venue outside Wellington.

Compare: LI 2014/275 r 173

123 Conduct of hearing by appearance

- (1) The Commissioner must determine how a hearing by appearance must be conducted.
- (2) Members of the public may attend a hearing by appearance, unless the Commissioner decides that it is not appropriate.

Compare: LI 2014/275 r 174

Costs

124 Costs

In deciding whether costs should be awarded to a party, the Commissioner may consider whether the proceedings might have been avoided if the party who started the proceedings had given to the applicant or PVR holder (as the case may be) a reasonable opportunity to take action to avoid the proceedings before the proceedings were started.

Compare: LI 2014/275 r 175

*Fee waivers***125 Fee waivers**

- (1) This regulation applies if actions taken by or on behalf of the Commissioner result in a growing trial not being completed,—
 - (a) in the case of an annual crop, in the year in which the growing trial started (the **current year**):
 - (b) in the case of any other crop, in any year following the actions taken by or on behalf of the Commissioner.
- (2) If this regulation applies, the Commissioner may—
 - (a) waive the growing trial fee, if the applicant has not been requested to pay it,—
 - (i) in the case of an annual crop, for the current year:
 - (ii) in the case of any other crop, for any year the Commissioner considers appropriate:
 - (b) waive the growing trial fee, if the applicant has been requested to pay it but has not paid it,—
 - (i) in the case of an annual crop, for the current year:
 - (ii) in the case of any other crop, for any year the Commissioner considers appropriate:
 - (c) waive the growing trial fee for the following year if the applicant has already paid the growing trial fee for the current year or if the Commissioner considers it appropriate to do so, as the case requires.

Schedule 1
Transitional, savings, and related provisions

r 4

Part 1
Provisions relating to these regulations as made

There are no transitional, savings, or related provisions in these regulations as made.

Schedule 2

Non-indigenous species of significance

r 6

	Common Māori name	English and/or Latin names	Plant botanical name
1	Kuru	Breadfruit, <i>Artocarpus altilis</i>	<i>Artocarpus altilis</i> (Parkinson) Fosberg
2	Hue	Gourd, calabash	<i>Lagenaria siceraria</i> (Molina) Standl.
3	Aute	Paper-Mulberry, <i>Broussonetia papyrifera</i>	<i>Broussonetia papyrifera</i> (L) Vent
4	Karaka/Kōpi		<i>Corynocarpus laevigatus</i> J R Forst. & G Forst.
5	Paratawhiti/Paraa	<i>Marrita fraxinea</i> (synonym)	<i>Ptisana salicina</i> (J E. Sm.) Murdock
6	Perei	<i>Gastrodia cunninghami</i> and <i>Orthoceras strictum</i>	<i>Gastrodia cunninghami</i> Hook f. <i>Orthoceras strictum</i> R Br.
7	Kūmara	Sweet potato	<i>Ipomoea batatas</i> L.
8	Taro	<i>Colocasia esculenta</i>	<i>Colocasia esculenta</i> (L.) Schott
9	Tī pore	Pacific cabbage tree	<i>Cordyline fruticosa</i> (L.) a. Chev.
10	Whikaho	Yam, <i>Dioscorea</i>	<i>Dioscorea</i> L.

Schedule 3

Fees payable under Plant Variety Rights Act 2022 (excluding GST)

Item	Fee (\$)
	r 7
	All plants
<i>Application for grant</i>	625
<i>Examination fee</i>	770
<i>Growing trial fee (per year of trial)—</i>	
	Agriculture and vegetable crops
seed-propagated varieties (cereals, peas, forage)	4,200
vegetatively propagated varieties (potatoes, hops)	2,800
	Fruit or nut plants
strawberry varieties	each year 290
other varieties	year 1 500
other varieties	each subsequent year 700
	Ornamentals
rose varieties	130
other varieties	year 1 310
other varieties	each subsequent year 450
	Other plants
grasses, white clover	4,510
other varieties including grass endophytes, fungi and algae	2,800
	All plants
¹ <i>Renewal fee</i>	385
<i>compulsory licence application</i>	1,000
<i>application for cancellation or nullification</i>	350
<i>request for hearing</i>	850

¹ This is subject to clause 6 of Schedule 1 of the Act (savings and transitional provisions).

Schedule 4

Quantities of propagating material to accompany applications

Species	Seed (g)	Seed in ears (ears)
Allium, amaranthus, capsicum, chicory, phacelia, radish	50	
Asparagus, borage	100	
Barley, oats, ryecorn, triticale, wheat	2000	120
Beans, lentils, lupins, maize	2000	
Beets	500	
Brassica (other than forage)	30	
Carrot, lettuce, parsnip, tomato	30	
Cucurbits	100	
Evening primrose	10	
Forage brassica	200	
Grasses: bents, phalaris, Yorkshire fog	20	
Grasses: brome, ryegrass	500	
Grasses: cocksfoot	100	
Grasses: crested dogstail, koeleria, paspalum	50	
Grasses: fescue	500	
Linseed	1000	
Lotus, Lucerne, plantain, red clover	50	
Peas	3000	
Serradella and sulla	100	
Sunflower	1000	
White clover	10	
Yarrow	25	

Rachel Hayward,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 24 January 2023, set out a variety of procedural and substantive rules implementing the provisions of the Plant Variety Rights Act 2022 (the **Act**).

Part 1 does the following things:

- it lists non-indigenous plant species of significance:
- it sets out rules about the amounts of fees and the timing and manner of their payment:

- it sets out rules about forms and documents:
- it sets out rules about the provision of addresses for service and communication:
- it sets out rules governing the operation of agents.

Part 2 (which relates mainly to the process for obtaining grants of plant variety rights (**PVRs**)) sets out rules about—

- PVR applications:
- the transmission of PVRs or interests in PVRs:
- the cancellation and nullification of PVRs:
- the surrender of PVRs, the restoration of lapsed applications and PVRs:
- the grant, amendment, and revocation of compulsory licences:
- keeping a PVR register and journal:
- searching the PVR register and obtaining PVR information:
- related matters.

Part 3 sets out rules relating to proceedings and hearings under the Act.

Schedule 1 relates to transitional, savings, and related matters.

Schedule 2 lists non-indigenous species of significance.

Schedule 3 sets out fees payable.

Schedule 4 lists the quantities of propagating material to accompany applications.

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These regulations are administered by the Ministry of Business, Innovation, and Employment.