

Plant Variety Rights Fee Changes on 24 January 2023

Last updated: December 2022

Purpose of This Document

The purpose of this document is to inform Plant Variety Rights (PVR) systems users about changes to plant variety rights fees.

Plant Variety Rights Fees Review

In 2022, the Ministry of Business, Innovation and Employment (MBIE) reviewed the current cost of services delivered by the Intellectual Property Office of New Zealand (IPONZ) through the Plant Variety Rights Office (PVR Office) and the fees charged to fund it.

Plant Variety Rights fees were last reviewed in 2002, and rising costs in the intervening period have resulted in annual deficits of up to \$0.956 million. In addition, the Plant Variety Rights Act 2022 was developed and enacted with new provisions that have implications on costs and fees.

The objectives of this fees review were to ensure that:

- the PVR Office is funded sustainably.
- users meet an appropriate portion of the cost given the benefit they receive; and
- both PVR fees and the PVR regime are transparent and equitable, while maintaining business certainty for users of the regime.

The fees review attempted to balance these objectives and to recognise that the fees have not been adjusted for 20 years. As a result, fees will not initially be raised to full cost recovery levels. \$2.000 million of interim Crown funding will be made available and will be used over the next three years to allow for this.

On 15 December 2022, the Cabinet Legislation Committee approved the Plant Variety Rights Regulations 2022, which includes the changes to fees for the PVR regime. These new Regulations will come into force with the substantive parts of the Plant Variety Rights Act 2022.

More information on this review may be found on the [IPONZ website](#).

Over the next three years, MBIE will monitor the impact of the new fee settings, conduct further analysis on the economic and public good benefits, and undertake another fees review to determine the future funding and fee settings to put in place from 2025 onwards.

PVR new fees

The revised fees structure is composed of the following:

- a. a single application fee, regardless of plant variety
- b. a single examination fee, regardless of plant variety
- c. the following categories for growing trial fees:
 - i. agriculture and vegetable varieties (with sub-categories for seed propagated varieties and vegetatively propagated varieties)
 - ii. fruit and nut varieties (with strawberries separated from other varieties)

- iii. ornamental varieties (with roses separated from other varieties)
 - iv. grasses and clover varieties and
 - v. other plant varieties including grass endophytes, fungi, and algae.
- d. for hearings, a request for hearing fee and a cancellation or nullification application fee to recognise the new processes created in the Act.

All fees shown below are in New Zealand Dollars (NZD), and do not include GST. GST (15%) applies to all fees where the applicant or requestor is in New Zealand.

Fee category	New fee	Old fee
Applications		
Herbage, agriculture, vegetable and fungi	\$625	\$500
Fruit and nut		\$500
All other plants		\$350
Applications made but later withdrawn (no refund)		\$500
Examinations		
Agriculture and vegetable crops	\$770	\$600
Fruits and nuts		\$300
All other plants (incl. ornamentals)		\$230
Growing trials (per year of trial)		
Agriculture and vegetable crops		
- seed propagated varieties (cereals, peas, forage)	\$4,200	\$2,300
- vegetatively propagated varieties (potatoes, hops)	\$2,800	\$1,600
Fruit and nut		
- strawberry varieties	\$290	\$500
- all other varieties - year 1	\$530	\$500
- all other varieties - subsequent year annual charge	\$700	\$500
Ornamentals		
- roses	\$130	\$450
- all other varieties - year 1	\$310	\$450
- all other varieties - subsequent year annual charge	\$450	\$450
Grasses, white clover	\$4,510	\$3,200
Grass endophytes, fungi	\$2,800	\$1,500
Annual grant fee		
Single annual grant fee	\$385	\$160
Other fees		
Compulsory license application	\$1,000	\$600

Cancellation or nullification of application	\$350	N/A
Request for hearing	\$850	N/A

Implementation

1. The new fee levels will apply to any application made from 24 January 2023, under the Plant Variety Rights Act 2022. Any varieties applied for under the Plant Variety Rights Act 1987, which are already under trial or examination before this date will remain under the existing fee structure.
2. For renewals, the first renewal of an existing PVR after the implementation date will be the current renewal fee. Following that, subsequent renewals will be charged at the level of the new fee.

Below are some fictional examples that show how these changes will apply:

Example 1:

Company A filed a new plant variety rights application for a new variety of potato on 28 April 2022.

The examiner advises that a centralised trial for potatoes is scheduled for mid-2023, and requests for payment of a trial fee for this application by 27 January 2023.

Fee to pay: Because the application was made before 24 January 2023, it was applied for under the Plant Variety Rights Act 1987, and the old fee structure applies.

- The PVR trial fee is \$1,600, and Company A must pay this fee by the close of 27 January 2023.

Example 2:

Company B filed a new plant variety rights application for a new variety of white clover on 12 July 2012, and the application is granted on 27 March 2015.

Company B has regularly paid the annual renewal fees for this variety. Their next renewal is due on 27 March 2023.

Fee to pay: The first renewal after 24 January 2023 will be under the old fee structure, after which any subsequent renewals will be under the new fees:

- The renewal fee due by the close of 27 March 2023 is \$160.
- The next renewal fee due on 27 March 2024 is \$385.