

PVR process

1. Application

You may apply for Plant Variety Rights in New Zealand by completing the online application form through the IPONZ website.

You may also file your application via the [UPOV EAF](http://www.uipo.int) (<http://www.uipo.int>), an online system maintained by the International Union for the Protection of New Varieties of Plants (UPOV). This will allow you to submit your application data to multiple IP offices (including IPONZ), but is only available for a limited number of plant varieties.

The following items may be required to be submitted as part of the application process:

- A completed [technical questionnaire](http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-questionnaires/) (<http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-questionnaires/>) applicable to the particular genus or species.
- A digital colour photo for every application for a fruit, ornamental, tree, or vegetable variety (not essential for vegetable varieties, but desirable).
- A [seed sample](http://www.mbie8.cwp.govt.nz/about-ip/pvr/apply/#seed-samples) (<http://www.mbie8.cwp.govt.nz/about-ip/pvr/apply/#seed-samples>) for an arable crop, pasture plant, amenity grass or vegetable variety.
- Payment of the [relevant fee](http://www.mbie8.cwp.govt.nz/about-ip/pvr/fees/) (<http://www.mbie8.cwp.govt.nz/about-ip/pvr/fees/>).
- Documentation: Authorisation of agent, Evidence of ownership, Evidence of priority.

For more information on applying for Plant Variety Rights, see [How to apply for a PVR](http://www.mbie8.cwp.govt.nz/about-ip/pvr/apply/) (<http://www.mbie8.cwp.govt.nz/about-ip/pvr/apply/>).

2. Preliminary examination

Following application acceptance the examiner carries out a preliminary examination, including the following:

- The variety testing requirements and arrangements are determined, including access to plant material.
- Varieties that may be similar to the candidate variety are identified.
- Formalities such as ownership and newness are checked.
- The variety denomination is assessed, or requested if not yet proposed.

The preliminary examination may require clarification of application information and requests for further information. Depending on the kind of variety and the procedure followed, you may be required to supply further information and/or plant material. The following links provide information on:

- [Arrangements for growing trials](http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/arrangements-for-growing-trials/) (<http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/arrangements-for-growing-trials/>).
- [Availability and supply of plant material](http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/arrangements-for-growing-trials/#availability-and-supply-of-plant-material) (<http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/arrangements-for-growing-trials/#availability-and-supply-of-plant-material>).
- [Varieties of common knowledge: identification](http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/arrangements-for-growing-trials/#varieties-of-common-knowledge) (<http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/arrangements-for-growing-trials/#varieties-of-common-knowledge>).

While you can get more specific advice from [IPONZ/PVR Office](http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/arrangements-for-growing-trials/#varieties-of-common-knowledge), the following is a general indication of the requirements:

3. Testing and evaluation

a) Ornamentals and trees

Garden roses, and any other ornamentals tested in a central PVR trial

You will be required to supply plants for evaluation in the central trial.

Ornamentals evaluated using an overseas test report

A test report will be requested from the foreign authority by the PVRO, and the results used for testing in NZ. You may be required to supply plants for the IPONZ/PVR Office reference collection. See [Use of foreign test reports](http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/use-of-foreign-test-reports-for-dus-testing-in-new-zealand/#use-of-foreign-test-reports) (<http://www.mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/use-of-foreign-test-reports-for-dus-testing-in-new-zealand/#use-of-foreign-test-reports>).

Ornamentals evaluated in growing trials on the applicant's property

You should establish and maintain a growing trial as specified by the IPONZ/PVR Office. It will often be necessary to grow the most similar variety or varieties alongside the candidate variety. You may also be required to supply plants for the PVR reference collection. See [Guidelines for growing trials on applicant's property](http://mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/guidelines-for-pvr-growing-trials-on-an-applicant's-property) (<http://mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/guidelines-for-pvr-growing-trials-on-an-applicant's-property/#guidelines-for-growing-trials-on-applicant's-property>)

b) Fruit

Testing of pipfruit and stonefruit varieties usually occurs at specified test centres, so you will be asked by the test centre staff to supply plants for evaluation. Each test centre has specific requirements (eg, [DUS testing of apples at the Cultivar Centre Hawkes Bay](http://mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/dus-testing-of-apple-varieties-practice-centre-applicant-staff) (<http://mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/dus-testing-of-apple-varieties-practice-centre-applicant-staff>))

Other genera for fruit varieties have differing arrangements for testing, as specified by the PVR Office. For most varieties, the applicant should be prepared to supply or provide access to planting material for testing purposes in reasonable time.

c) Agricultural and vegetable crops

Crops tested in central PVR Office trials include:

- barley, oats, wheat, rye, triticale
- grasses and clover
- peas
- potatoes
- forage brassicas
- grass endophytes.

For the crops specified above that have the requirement to supply seed at application (that is, barley, oats, wheat, rye, triticale, grasses, clover, peas and forage brassicas) there is normally no need for you to supply further information and material after your initial application.

For potatoes and grass endophytes, plant material will be requested to be supplied just prior to the time of trial establishment.

Crops tested by the applicant

For those crops not tested in IPONZ/PVR Office centralised trials, you are responsible for describing the new variety and demonstrating that it is distinct, uniform and stable (DUS). This means you must conduct a growing trial in New Zealand of the new variety together with any similar varieties, usually for two growing seasons, as specified by the IPONZ/PVR Office.

From the growing trial you must supply:

- A **detailed botanical description** of the variety. Prepare this by completing the **Objective Description** form appropriate to the genus – this will be sent to you by the PVR Office. Sometimes an additional description in your words is necessary or helpful to describe characteristics not adequately covered in the Objective Description form.
Note: The objective description must be prepared from plants grown in New Zealand.
- A **distinctness** statement. You should describe how the new variety is distinct from others and, unless it is very obvious, verify the difference by supplying plant material, photographs, diagrams, statistical data or by any other appropriate scientific means.
- A statement demonstrating that the variety is sufficiently uniform and stable.

Agricultural and vegetable varieties evaluated using an overseas test report

For certain varieties a test report will be requested from the foreign authority by the PVRO, and the results used for testing in NZ. You may be required to supply seed for the IPONZ/PVR Office reference collection. See [Use of foreign test reports](http://mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/use-of-foreign-test-reports-for-dus-testing-in-new-zealand/#use-of-foreign-test-reports) (<http://mbie8.cwp.govt.nz/about-ip/pvr/technical-guidance/current/use-of-foreign-test-reports-for-dus-testing-in-new-zealand/#use-of-foreign-test-reports>)

Testing to determine Distinctness, Uniformity and Stability (DUS) and drafting the variety description

Evaluation for PVR is based on assessment of the new variety in a growing trial. To:

- establish that it is **distinct**, it is usual to compare plants of the new variety growing alongside plants of the most similar varieties
- properly assess **uniformity** and **stability**, there must be a sufficient number of plants to compare.

A detailed morphological description of the new variety is also prepared.

You will be informed of the necessary arrangements, and when to pay the trial or examination fees.

Establishment of growing trials and the evaluation of the new variety can involve long lengths of time - frequently this part of the process can take years. To avoid unnecessary delays, PVRO will set realistic deadlines for the applicant to provide documents, information or plant material. Should a deadline not be met, the application could lapse.

Use of experts

The examiner may seek information from an expert with an extensive knowledge of existing varieties of the species (in the case of roses, a panel of experts is consulted). The expert(s) will study the description and photographs of the variety, and will sometimes also view growing specimens or distinctive parts such as the fruit or flowers. The expert(s) may often be familiar with the candidate variety. After the assessment, the expert(s) will provide an opinion on the eligibility of candidate varieties - in particular whether they believe them to be distinct.

4. Final examination and recommendation

Following the completion of variety testing, the examiner carries out a final examination, in particular focusing on technical aspects of the application. On completion of the examination, the examiner provides the Commissioner with a recommendation as to whether or not the variety is eligible for a grant of Rights.

5. PVR granted or refused

If the Commissioner is satisfied that the variety meets the criteria for Plant Variety Rights, you will receive the grant of Plant Variety Rights.

If the Commissioner is satisfied that the variety does **not** meet the criteria for PVR, you will receive a proposal to refuse a grant of Rights. You have 28 days to respond to the proposal, and the Commissioner will either confirm the refusal or the variety could be returned to examination.

The [Plant Variety Rights Act 1987](http://www.legislation.govt.nz/act/public/1987/0005/latest/whole.html#DLM100578) (<http://www.legislation.govt.nz/act/public/1987/0005/latest/whole.html#DLM100578>) provides more details.

Term of grants

The term of grant begins when the Right is granted. A variety from a:

- non-woody plant genus - such as petunia, lily, *Alstroemeria*, potato or grasses - can remain protected for 20 years
- woody plant genus - such as apple, blueberry, pine, or rose - can remain protected for 23 years.

6. Objections

Once an application is accepted by IPONZ, any person at any time may lodge an objection against the making of a grant of Rights for a variety that is under application.

Following the grant of Rights, any person at any time may lodge an objection on the grounds that it was made in contravention of the requirements of the Act, against the variety while the grant of Rights is in force.

Appeals against decisions of the Commissioner

An appeal may be made against any decision of the Commissioner within 28 days of receiving notice of the decision. For full details refer to Sections 23 and 24 of the [Plant Variety Rights Act 1987](http://www.legislation.govt.nz/act/public/1987/0005/latest/DLM100578.html#DLM101041) (<http://www.legislation.govt.nz/act/public/1987/0005/latest/DLM100578.html#DLM101041>)