

Rights and requirements

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There are a number of ways of obtaining the various intellectual property rights and the requirements for doing so can vary. Some rights are obtained by registration, while others are created by statute or arise at common law. The scope of rights can vary, and each intellectual property asset can be supported by more than one type of intellectual property right.

Plant Variety Rights

A novel plant variety may be protected in New Zealand through the Plant Variety Rights (PVR) system. The holder of a registered PVR has the exclusive right to sell seed or reproductive material of the new variety, or to license others. The PVR holder can also collect royalties on sales of seed or reproductive material. The term of protection runs from the date the PVR is granted and is 23 years (woody plants) or 20 years (non-woody plants).

In order for a novel plant variety to gain a PVR it must meet four criteria. These are:

- The plant must be a new variety

Reproductive material must not have been sold, or offered for sale, in New Zealand more than one year before making a PVR application. Applications can be made for varieties which have been sold overseas for no more than six years (woody plants) or four years (non-woody plants).

- The plant must be distinct
The variety must have one or more characteristics that distinguish it from other publicly known varieties. Examples of distinct characteristics are: novel fruit, a distinctive flower, unique leaf shape or improved disease resistance.
- The characteristics be homogenous
The characteristics of the plant variety must remain uniform across a number of plants, with particular attention being paid to the features of its sexual reproduction or vegetative propagation, depending on which is applicable.
- The appearance must be stable
The distinctive features of the variety must be stable in following generations. In most cases, the PVR Office will require samples of the new variety to be sent to them for testing in order to verify that the new variety meets all of the requirements described here.

In addition, when the application is made, an acceptable denomination (variety name) that complies with internationally accepted guidelines must be proposed.

A PVR application requires:

- an application form;
- a completed technical questionnaire applicable to the particular genus of plant;
- for some varieties there are additional requirements such as colour photographs representing the variety or a sample of seed; and
- payment of the fee

During the evaluation process, the variety will be assessed based on the four requirements set out above. It may be necessary to supply further information and plant material to the PVR Office.