

House of Representatives

Supplementary Order Paper

Tuesday, 26 July 2022

Plant Variety Rights Bill

Proposed amendments

Andrew Bayly, in Committee, to move the following amendments:

Clause 36

In *clause 36(2)(d)*, replace “any fee specified in the regulations” (page 23, line 19) with “the prescribed fee”.

Clause 38

In *clause 38(3)(d)*, replace “any fee specified in the regulations” (page 24, line 25) with “the prescribed fee”.

Clause 81

In *clause 81(1)(c)*, replace “any fee specified in the regulations” (page 43, line 4) with “the prescribed fee”.

Clause 88

In *clause 88(1)(c)*, replace “any fee specified in the regulations” (page 46, line 1) with “the prescribed fee”.

Clause 95

In *clause 95(2)(c)*, replace “any fee specified in the regulations” (page 48, line 27) with “the prescribed fee”.

Clause 105

In *clause 105(c)*, replace “any fee specified in the regulations” (page 53, line 4) with “the prescribed fee”.

Clause 112

In *clause 112(c)*, replace “any fee specified in the regulations” (page 55, line 5) with “the prescribed fee”.

New clause 149A

After *clause 149* (page 68, after line 14), insert:

*Review of proposed fee changes***149A Review of proposed fee changes**

- (1) Before any changes are made to the fees prescribed by regulations under **section 150(1)**, the Ministry must—
 - (a) undertake a review of the fee structure, including consideration of—
 - (i) the impact of any proposed increase in fees; and
 - (ii) whether the proposed increase in fees is in the public interest; and
 - (b) provide a reasonable opportunity for the public to make submissions as part of the review in **paragraph (a)**.
- (2) A report summarising the review, including a recommendation on the proposed fee structure and reasons for that recommendation, must be published on a website maintained by, or on behalf of, the Ministry.

Clause 150

In *clause 150*, replace *subclause (2)* (page 70, lines 27 to 36) with:

- (2) The fees prescribed by regulations under **subsection (1)**—
 - (a) must not increase unless a review undertaken under **section 149A** has recommended the fee increase; and
 - (b) must not be differentiated based on the age of a PVR grant; and
 - (c) may be structured so that the renewal fees—
 - (i) recover a share of the costs incurred by the Commissioner in performing their functions under this Act or the Plant Variety Rights Act 1987; and
 - (ii) recover those costs at a level that provides an appropriate incentive (having regard to the purpose of this Act set out in **section 3(a)**) for applicants or PVR holders to let those PVRs expire if they do not receive, or will not receive, sufficient benefit from having the PVRs.

Schedule 1

In *Schedule 1*, replace *clause 9* (page 76, lines 1 to 8), insert:

9 Fees

Fees applying from commencement

- (1) The following fees apply from the date that the relevant provision comes into force until they are replaced by an Order in Council made under **section 150(1)(o)**:

Description of fee	Relevant provision	Prescribed fees—by plant type (\$)				
		Agriculture and vegetable crops	Fruit and nuts	All other plants	Grasses and white clover	Grass endophytes and fungi
PVR application fee	Section 36(2)(d)	500	500	350	500	500
PVR variation fee	Section 38(3)(d)	500	500	350	500	500
Growing trials (per year)	Section 48(1)	2,300 (seed propagation); 1,600 (vegetative propagation)	500	450	3,200	1,500
Growing trials (subsequent year if different)	Section 48(1)	500 (potatoes)	—	—	—	—
PVR examination fee	Section 48(2)	600	300	230	600	600
PVR renewal fee	Section 86(1)	160	160	160	160	160
Restoration of lapsed PVR fee	Section 88(1)(c)	500	500	350	500	500
Restoration of cancelled PVR fee	Section 95(2)(c)	500	500	350	500	500
Notices of opposition by opponent	Sections 49(2)(a), 91(2)(a), 98(2)(a)	350	350	350	350	350
Application for cancellation or nullification	Section 81(1)(c)	350	350	350	350	350
Request for hearing	Section 99(3)(c), 118	850	850	850	850	850
Compulsory licences						
Compulsory licence application fee	Section 105(c)	600	600	600	600	600
Application for amendment or revocation	Section 112(c)	350	350	350	350	350

**Proposed amendments to
Plant Variety Rights Bill**

**Miscellaneous
recouping costs**

Reports by overseas testing body under section 47(2)(c)	Section 48(1)	At cost	At cost	At cost	At cost	At cost
Hourly rate— Commissioner		165	165	165	165	165
Hourly rate— Technical expert		100	100	100	100	100
Hourly rate— Administration		65	65	65	65	65
Hourly rate— Searching/ photocopies		0	0	0	0	0

- (2) No Order in Council may be made under **section 150(1)(o)** to increase any of the fees prescribed in **subclause (1)**, or to create additional fees, until 3 years after the date that this clause comes into force.

Renewal fees

- (3) For a plant variety right referred to in **clause 1(2)(a)**, the next annual grant fee (after this clause comes into force) must be paid when due in accordance with the Plant Variety Rights Act 1987, but after that due date renewal fees become due in accordance with this Act.

Explanatory note

This Supplementary Order Paper amends the Plant Variety Rights Bill.