



Plant Breeder's Rights Regulations 1994

Statutory Rules 1994 No. 352 as amended

made under the

Plant Breeder's Rights Act 1994

Consolidated as in force on 5 July 1999

(includes amendments up to SR 1999 No. 83)

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1 Name of regulations [see Note 1]

These regulations are the *Plant Breeder's Rights Regulations 1994*.

2 Commencement [see Note 1]

These Regulations commence on the date of commencement of the *Plant Breeder's Rights Act 1994*.

3 Interpretation

- (1) In these Regulations, unless the contrary intention appears:

Act means the *Plant Breeder's Rights Act 1994*.

authorised testing establishment means an establishment authorised under regulation 3A.

- (2) In the Schedule, a reference to a section or subsection, is a reference to that section or subsection of the Act.

3A Authorised testing establishment

- (1) For the purposes of conducting a test growing of a plant variety under section 37 of the Act, the Secretary may authorise, in writing, an establishment to conduct the test growing.
- (2) An establishment may be authorised only if the Secretary is satisfied that it is capable of conducting a test growing of a variety in a manner appropriate to give effect to the obligations of Australia under the Convention.
- (3) The Secretary must give the operator of the establishment written notice of:
- (a) the Secretary's decision whether to authorise the establishment; and
 - (b) if the decision is a refusal — the reasons for that decision.
- (4) Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary to refuse to authorise an establishment.⁴

4 Prescribed fees

The fee payable under subsection 80 (2) of the Act for a matter set out in the Schedule is the fee specified in the Schedule for that matter.

5 Refund and remission of fees in specified circumstances

- (1) If a person has paid, in respect of a matter, an amount greater than the prescribed fee for the matter, the Secretary may refund to the person so much of the amount as is excess to the fee.
- (2) If a service in respect of which a person has paid a fee has not been provided, or has been provided only in part, the Secretary may refund the fee, or so much of the fee as is proportionate to the part of the service that has not been provided, as appropriate.
- (3) If a person to whom a refund could be made under subregulation (1) or (2) agrees, the Secretary may remit, against a fee that the person subsequently becomes liable to pay, an amount equal to the amount that could be refunded.
- (4) The Secretary must give each person to whom subregulation (1) or (2) applies written notice of:
 - (a) the Secretary's decision whether to refund or remit an amount, a fee or part of a fee (as the case may be); and
 - (b) if the decision is a refusal — the reasons for that decision.
- (5) Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary:
 - (a) to refuse to refund:
 - (i) an amount paid in excess of a prescribed fee; or
 - (ii) a fee for a service that has not been provided; or
 - (iii) so much of a fee as is proportionate to the part of a service that has not been provided; or
 - (b) to refuse to remit an amount equal to an amount that could be refunded

Schedule Fees

(regulation 4)

Column 1 Item	Column 2 Act, service or occasion in respect of which fee is payable	Column 3 Fee
1A	Designation of an approved person under section 8	\$50
1B	Renewal of designation of an approved person	\$50
1	On making a request under subsection 19 (4), whether or not the request includes a request under subsection 19 (10)	\$500
2	On making a request for a certificate under subsection 19 (11)	\$100
3	Amendment of the register on notification of assignment under section 21	\$100
4	On lodgment of an application under section 26	\$300
5	On making a request for a variation of an application under subsection 31 (1)	\$100
6	On lodgment of a detailed description under section 34 for:	\$ 800
	(a) a variety tested under section 37 to establish that the variety is distinct, uniform and stable:	\$1400
	(i) if the testing is conducted by an authorised establishment;	\$1400
	(ii) in any other case	\$1200
	(b) a variety to which subsection 38 (3), (4) or (5) applies	
	(c) each of 2 or more varieties of the same plant species tested simultaneously at the same site in Australia under section 37 to establish that the varieties are distinct, uniform and stable, for which a complete application and detailed description are lodged on the same day by the same approved person or applicant or agent of the applicant under section 34	
7	On lodgment of an objection under section 35	\$100

Column 1 Item	Column 2 Act, service or occasion in respect of which fee is payable	Column 3 Fee
8	On making a request for a copy of an application, an objection or a detailed description under subsection 36 (2)	\$50
9	On lodgment of an application for a declaration of essential derivation under subsection 40 (1)	\$800
10	Grant of PBR in a plant variety under section 44	\$300
11	On lodgment of an application for:	\$500
	(a) revocation of a PBR under subsection 50 (8); or	\$500
	(b) revocation of a declaration of essential derivation under subsection 50 (9)	
12	On making a request for a copy of an entry in the register under subsection 62 (2)	\$50
13	On making an annual subscription to the Plant Varieties Journal issued under section 68	\$40
14	On purchasing a single issue of the Plant Varieties Journal	\$14
15	For annual maintenance of a PBR — on each anniversary of the grant	\$300
16	For the undertaking, on request of a person, by the Secretary or the Registrar of any work required or authorised under the Act and for which a fee is not prescribed under any other item	\$75 per hour or part of an hour

Table of Statutory Rules

Notes to the *Plant Breeder's Rights Regulations 1994***Note 1**

The *Plant Breeder's Rights Regulations 1994* (in force under the *Plant Breeder's Rights Act 1994*) as shown in this consolidation comprise Statutory Rules 1994 No. 352 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
1994 No. 352	18 Oct 1994	10 Nov 1994 (<i>see Gazette</i> 1994, No. S392)	
1994 No. 353	18 Oct 1994	1 Jan 1995	—
1995 No. 290	10 Oct 1995	10 Oct 1995	—
1999 No. 83	4 June 1999	4 June 1999	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1	rs. 1999 No. 83
R. 3	am. 1995 No. 290
R. 3A.....	ad. 1995 No. 290 am. 1999 No. 83
R. 4 (2nd occurring)	ad. 1995 No. 290 rep. 1999 No. 83
R. 5	ad. 1999 No. 83
Schedule.....	rs. 1994 No. 353 am. 1995 No. 290
